CD/1994

Conference on Disarmament

20 August 2014

Original: English

Note verbale dated 18 August 2014 from the Permanent Mission of Ukraine addressed to the Acting Secretary-General of the Conference on Disarmament transmitting the comment by the Ministry of Foreign Affairs of Ukraine on the protest expressed to the Russian Federation regarding its attempts to extend its jurisdiction over the Ukrainian nuclear facilities and material in the Autonomous Republic of Crimea

The delegation of Ukraine to the Conference on Disarmament presents its compliments to the Acting Secretary-General of the Conference H.E. Mr. Michael Møller and has the honour to transmit herewith the comment of the Ministry of Foreign Affairs of Ukraine on the protest, expressed to the Russian Federation regarding its attempts to extend Russian jurisdiction over the Ukrainian nuclear facilities and materials in the Autonomous Republic of Crimea. These actions pose a direct threat to the international regime established by the Treaty on the Non-Proliferation of Nuclear Weapons of 1 July 1968.

The delegation of Ukraine would appreciate if this Comment could be issued as an official document of the Conference on Disarmament and circulated to all member States and observer States of the Conference

GE.14-15039 (E)

1415039

Please recycle

Comment of the Ministry of Foreign Affairs of Ukraine on the protest, expressed to the Russian Federation regarding its attempts to extend Russian jurisdiction over the Ukrainian nuclear facilities and materials in the Autonomous Republic of Crimea

The Ministry of Foreign Affairs of Ukraine expressed a strong protest regarding the attempts of the Russian Federation to extend its national jurisdiction over Ukraine's nuclear facilities, installations and materials, located on the temporarily occupied by the Russian Federation part of the territory of Ukraine in the Autonomous Republic of Crimea and the city of Sevastopol as well as the intention to extend to them the application of the provisions of the Agreement between the USSR and the IAEA of 21 February 1985.

The note, passed to the Russian side, emphasizes that all nuclear facilities, installations and materials located on the territory of the Autonomous Republic of Crimea and the city of Sevastopol are the property of Ukraine. Their legal status, operating procedures, use and maintenance are regulated by the Ukrainian legislation as well as provisions of the Agreement between Ukraine and the IAEA for the Application of Safeguards in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons of 21 September 1995 and its Additional protocol of 15 August 2000.

Attempts of the Russian Federation to take any actions, aimed at the unilateral change of the national jurisdiction of the Ukrainian nuclear facilities, located on the territory of Ukraine, temporarily occupied by Russia, are void. These actions pose a direct threat to the international regime established by the Treaty on the Non-Proliferation of Nuclear Weapons of 1 July 1968.

It is also noted that deployment of nuclear weapons or redirecting Ukrainian nuclear materials and facilities, in particular the DR-100 research reactor and other nuclear installations of the Sevastopol National University of Nuclear Energy and Industry, are not allowed for military purposes throughout the territory of Ukraine, including the temporarily occupied territory of the Autonomous Republic of Crimea and the city of Sevastopol.

In this context the Ministry of Foreign Affairs of Ukraine warns the Russian side against any actions leading to the violation of the non-nuclear status of the occupied by the Russian Federation part of Ukraine's territory, as well as the extension of the provisions of the Agreement between the USSR and the IAEA of 21 February 1985 to the Ukrainian nuclear facilities and materials.

Conference on Disarmament

25 August 2014

Original: English

Letter dated 12 August 2014 from the President of the Conference on Disarmament addressed to the Acting Secretary-General of the Conference transmitting the reports of the Coordinators on the various substantive agenda items in accordance with decision CD/1978 adopted by the Conference on 26 March 2014 establishing a schedule of activities of the 2014 session

I have the honour to transmit to the Conference on Disarmament the following reports in accordance with decision CD/1978 adopted by the Conference on 26th March, 2014 establishing a Schedule of Activities:

1. Agenda Items 1 and 2 with a general focus on nuclear disarmament coordinated by Mr. Walid Abdelnasser, Ambassador of Egypt

2. Agenda Items 1 and 2 with a general focus on the ban of the production of fissile materials for nuclear weapons and other explosives devices coordinated by Mr. Micheal Biontino, Ambassador of Germany.

3. Agenda Item 3 Prevention of an arms race in outer space coordinated by Mr. Matthew Rowland, Ambassador of the United Kingdom of Great Britain and Northern Ireland.

4. Agenda item 4, on Effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons coordinated by Ms. Marta Mauras, Ambassador of Chile.

5. Agenda Items 5, 6 and 7 on new types of weapons of mass destruction and new systems of such weapons, radiological weapons, Comprehensive programme on disarmament and Transparency in armament coordinated by Mr. Mikhail Khvostov, Ambassador of Belarus

The reports were submitted by the coordinators in their personal capacity.

I request that the reports be circulated to member States of the Conference in a single official document of the Conference on Disarmament.

GE.14-14845 (E)

1414845

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Annex I

Report on the informal meetings on agenda items 1 "Cessation of nuclear arms race and Nuclear Disarmament" and 2 "Prevention of nuclear war, including all related matters", with a general focus on nuclear disarmament, held from 21 to 23 May 2014

Submitted by Mr. Walid M. Abdelnasser, Ambassador and Permanent Representative of Egypt

1. On March 26th, 2014 the Conference on Disarmament agreed in its decision CD/1978 that "while continuing to seek the path towards renewed negotiations, it is important that the Conference holds structured and substantive discussions on all the items listed in its agenda contained in document CD/1965". Pursuant to this decision informal meetings were held on items 1 "Cessation of the nuclear arms race and nuclear disarmament" and 2 "Prevention of nuclear war, including all matters" of the agenda of the Conference on Disarmament, with a general focus on nuclear disarmament. The five sessions devoted to this theme took place on 21–23 May 2014.

2. The item "cessation of the nuclear arms race and nuclear disarmament" has been on the agenda of the Conference on Disarmament since its inception. While consensus on a programme of work remains elusive, the Conference on Disarmament has often held substantive discussions on items 1 and 2 of its agenda from 2006 to 2013. Based on the work of the Conference on this issue, and with the aim of fostering the start of the related substantive work in the context of an agreed programme of work for the Conference on Disarmament, the discussions focused on: (a) an overview of nuclear disarmament; (b) elements and approaches of legally binding commitments towards nuclear disarmament; (c) related measures to accelerate progress towards a world free of nuclear weapons; (d) confidence building measures and the way forward.

3. In order to facilitate the proceedings, the following documents were distributed to the delegations:

(a) A work plan for discussions prepared by the Coordinator highlighting some landmarks related to nuclear disarmament (annex 1);

(b) A brief summary by the Conference on Disarmament Secretariat on previous discussions on the topic from 2006 to 2012;

(c) The Secretariat's listing of the official documents of the Conference on Disarmament on nuclear disarmament since 1993;

(d) The remarks of the coordinator (annex 2);

(e) UNIDIR presentation on the legal elements and approaches for achieving nuclear disarmament (annex 3).

4. The delegations were provided with oral summaries of the meetings.

5. During the discussions useful presentations were made by some delegations on:

(a) Actions taken to reduce nuclear arsenals and an assessment of where we stand now from achieving nuclear disarmament. How much has been achieved since the

1980s? Some nuclear weapon States recalled their actions in favour of reducing nuclear weapons and their reports submitted recently to the Third Preparatory Committee for the 2015 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons. Some other states pointed to the continued development of new categories of nuclear weapons and their delivery systems, together with the fact that nuclear weapons continued to remain at the heart of security doctrines. Those States further added that vast public spending being diverted towards the modernization of nuclear weapons is unsustainable in a world where basic human needs are not being met.

(b) How perceptions and views affect nuclear disarmament especially relating to the quality and status of obligations and commitments as well as to what constitutes credible progress on nuclear disarmament?

(c) How nuclear disarmament and nuclear non-proliferation are interlinked?

(d) Nuclear disarmament framework and elements required to achieve nuclear disarmament.

(e) The approaches on how to achieve nuclear disarmament.

(f) The measures related to accelerating progress towards a world free of nuclear weapons.

6. Reference was made to the important developments that took place outside the Conference on Disarmament, namely: the two conferences on the humanitarian consequences of nuclear weapons in Oslo in 2013 and Nayarit in 2014, the preparation for the third conference in Vienna, the follow-up process to the United Nations General Assembly High-level Meeting on nuclear disarmament, the Open-ended Working Group on taking forward nuclear disarmament negotiations, the Nuclear Security Summit in The Hague in March 2014, the United Nations Disarmament Commission session in April 2014 and the 2014 Third Preparatory Committee for the 2015 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons. All of these events, as considered by some delegations, substantiated the need to address the issue of nuclear disarmament in the Conference on Disarmament.

7. Most delegations who expressed themselves renewed their commitment to achieving nuclear disarmament as a priority for the international community. Several delegations recalled the priority assigned to nuclear disarmament in the special session of the General Assembly devoted to disarmament SSOD-I and underscored that the priority should be given to negotiating a legally binding nuclear disarmament instrument in a time-bound framework with specified deadlines to eliminate nuclear weapons.

8. Some delegations underlined the importance to fulfill the mandate given to the Conference on Disarmament under United Nations General Assembly resolution 68/32 which called for the urgent commencement of negotiations in the Conference on Disarmament for the early conclusion of a comprehensive convention on nuclear weapons to prohibit their possession, development, production, acquisition, testing, stockpiling, transfer, use or threat of use and to provide for their destruction.

9. Those delegations called for the establishment of an ad hoc committee in the Conference on Disarmament to negotiate a legally binding nuclear disarmament instrument in a time-bound framework to eliminate nuclear weapons. They argued that the mere existence of nuclear weapons poses a threat to humanity and that nuclear disarmament is a legal obligation under Article 6 of the NPT.

10. Some delegations also insisted that, as it has been the case with other disarmament conventions, nuclear weapons should first be banned and then destroyed. Progressive de-legitimization of nuclear weapons, decreasing their military utility and negotiation of a

global non-discriminatory convention along the lines of the Chemical Weapons Convention, were also highlighted by some States.

11. Other delegations emphasized the need for urgent progress on nuclear disarmament, given the catastrophic consequences of nuclear weapons detonation. In so doing, they drew attention to the immense, uncontrollable capability and indiscriminate nature of a nuclear weapons detonation, whose devastating impact reaches well-beyond national borders. They argued that the only way to guard against a nuclear weapons detonation - whether by accident, miscalculation or design - is to ensure the total elimination of nuclear weapons and the assurance that they will never be produced again. As such, they emphasized that humanitarian considerations are now recognized as a fundamental global concern and stated that such considerations must underpin all approaches, efforts and international commitments towards nuclear disarmament.

12. Some other States, whilst acknowledging the importance of the humanitarian dimension, highlighted the importance of the security considerations and underlined the need to foster international conditions in which the possession of nuclear weapons would no longer be seen as necessary or legitimate for the preservation of national and global security. In response, some States maintained that such assertions only serve to fuel proliferation.

13. Other delegations have discussed the feasibility of establishing a timetable for nuclear disarmament. They preferred to move along "a pragmatic and realistic path" by adopting a "step by step" approach through selecting feasible measures that lead to significant reductions in the numbers of nuclear warheads. Other states still underscored "building blocks" as a suitable approach towards the ultimate goal of nuclear disarmament.

14. Some States, however, argued that nuclear weapons served to undermine, rather than enhance security. They stated that the necessary conditions for nuclear disarmament had been created with the entry into force of the NPT and the subsequent undertakings that had been mace since then. Some added further that argument in favour of creating the necessary conditions for nuclear disarmament undermine NPT commitments, including the unequivocal undertaking made by the nuclear weapons States. For these States, the agreements made in 2000 within the NPT context demonstrate that nuclear disarmament is a step in the process towards general and complete disarmament.

15. It has been also emphasized by some delegations that while pursuing the goal of nuclear disarmament, measures should be taken to reduce the nuclear danger including de-alerting. The need for changing military or national security doctrines, ending the legacy of the Cold War and think through a new framework for nuclear disarmament was also stressed by some delegations.

16. Other States reaffirmed the established principle enshrined in the SSOD-I Final Document that the adoption of disarmament measures should take place in such an equitable and balanced manner as to ensure the right of each State to security and to ensure that no individual State or group of States may obtain advantages over others at any stage. At each stage the objective should be undiminished security at the lowest possible level of armaments and military forces.

17. The entry into force of the Comprehensive Test Ban Treaty (CTBT), the negotiations on a treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices, the enhancement of the level of security and confidence, the no First use, the negative security assurances, the universalization of NPT, prevention of an arms race in outer space (PAROS), the renunciation of the extended nuclear deterrence and the removal of nuclear weapons from territory of non-nuclear weapon states were referred to as examples of practical steps towards nuclear disarmament. It has also been underscored that some Conference on Disarmament members are not parties to the

NPT and that the focus should be directed to how to initiate negotiations in the Conference on a universal non-discriminatory convention on nuclear disarmament.

18. It was mentioned that there should be greater transparency in nuclear policy of countries under the nuclear umbrella.

19. Some delegations expressed their continued concern that one of the important decisions of the 2010 NPT Review Conference, namely convening a conference by the United Nations and sponsors of the 1995 NPT Review Conference resolution on the establishment of a Nuclear Weapons Free Zone and other Weapons of Mass Destruction in the Middle East in 2012, was not realized. They stressed that the agreed mandate of the conference as contained in 1995 NPT Review Conference Resolution on the Middle East and the 2010 NPT Review Conference Action Plan should be maintained and constitute the basis for convening the conference without further delay.

20. The inclusion of stocks of fissile material as part of the scope of any future meaningful treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices aimed at achieving nuclear disarmament was also underlined by some delegations, while other delegations mentioned that such treaty should focus only on banning future production.

21. In conclusion, the five sessions devoted to the informal discussions on nuclear disarmament proved to be a useful exercise since they provided member States with a renewed opportunity to discuss in depth their views on different matters related to one of the "core issues" on the agenda of the Conference on Disarmament. These informal discussions were helpful in enhancing mutual understanding of the positions of member States and the considerations on which these positions were based.

22. The atmosphere during the meetings was positive and constructive. The debates were rich, focused and interactive. This was indicative of the extent of work that awaits the Conference on Disarmament when it assumes its substantive work on the issue.

23. However, as reflected throughout this report, the views are still divided on many fundamental related issues including the legal framework, the approaches to achieve nuclear disarmament, and the timing and content of the mandate of the Conference on Disarmament. Differences and disagreements are mainly related to the fact that some States believe that it is time to initiate negotiations on a nuclear weapons convention while others do not.

24. The prospects for substantive discussions cannot be dissociated from the context of an agreed programme of work in the Conference on Disarmament which is still unfortunately out of reach.

Appendix I

Work plan proposed by the Coordinator

1. While continuing to seek the path towards renewed negotiations, the Conference on Disarmament decided to convene informal open-ended meetings for holding structured and substantive discussions on its agenda items. The objective of the first part of these informal discussions would be to identify and discuss issues and sub-issues within items 1 and 2 of the Conference on Disarmament 2014 agenda contained in document CD/1965, with a focus on the issue of nuclear disarmament. This exercise provided the opportunity to all members of the Conference to share their views on these matters, to validate items identified previously, suggest new elements, if any, and determine what aspects would deserve special attention. All this with a view to benefit from further discussions to facilitate future negotiations following the adoption of a program of work which will allow the Conference on Disarmament to appropriately resume the work incumbent upon it.

2. Members recalled that during previous the Conference on Disarmament formal and informal discussions on this topic from 2006-2012, they focused, inter alia, on the following issues:

(a) Convention prohibiting possessing, acquiring, developing, testing, producing, stockpiling, transferring, use or threat of use of nuclear weapons;

(b) Phased programme nuclear disarmament;

(c) Other related legal instruments and procedures;

(d) The establishment of an ad hoc committee on nuclear disarmament to start negotiation on a phased program for the complete elimination of nuclear weapons;

(e) Transparency, irreversibility, verification and confidence building measures;

(f) De-alerting and de-activation of nuclear systems;

(g) Other specific measures.

3. Based on the work of the Conference on Disarmament in the last seven years on this issue, and with the aim of initiating further discussion to facilitate future negotiations in the Conference on Disarmament, the following list of topics were prepared for the purpose of facilitating a structured discussion at the informal meetings on the substance of agenda items 1 and 2, with a general focus on nuclear disarmament. It is understood that members wishing to do so may raise any subject relevant to these agenda items, as is the normal practice of the Conference. The discussions focused on an overview of nuclear disarmament, elements and approaches of legally binding commitments towards nuclear disarmament, related measures to accelerate progress towards a world free of nuclear weapons, confidence building measures and the way forward.

Wednesday, 21 May 2014, 3:00–6:00 p.m.

Overview of nuclear disarmament

4. Brief summary by the Conference on Disarmament Secretariat on previous discussions on the topic from 2006 to 2012.

5. General Statements. This part allowed delegations to have a first general exchange of views.

6. An assessment of where do we stand now from achieving nuclear disarmament.

7. Perceptions and views on nuclear disarmament relating to the quality and status of obligations and commitments for nuclear disarmament as well as to what constitutes credible progress on nuclear disarmament.

8. How to address the issue of nuclear disarmament and whether a legal framework is needed?

9. Role of different actors in achieving nuclear disarmament.

10. Nuclear disarmament and nuclear non-proliferation.

Thursday, 22 May 2014, 10:00 a.m.–1:00 p.m.

Legal framework

11. To be able to achieve nuclear disarmament, certain key prohibitions will need to be established through legally binding commitments, as follows:

Elements required to achieve nuclear disarmament

12. This segment may include the following items:

(a) Scope: prohibition to possess, acquire, develop, test, produce, stockpile, transfer, use or threat of use of nuclear weapons. Control of nuclear weapons and fissile material holdings. Steps for destruction of all nuclear warheads and delivery vehicles, and Mechanisms for verifying destruction and ensuring compliance.

(b) Principles: transparency, irreversibility, verification and confidence building measures.

(c) Legal and institutional issues: international organization to coordinate verification, implementation, compliance and enforcement under international control, procedures for national implementation, dispute resolution procedure, penalties for noncompliance, recourse to the United Nations Security Council, UNGA and ICJ for further action.

Thursday, 22 May 2014, 3:00–6:00 p.m.

Approaches on how to achieve nuclear disarmament

13. Discussions in this segment focused on how effective are the proposals for achieving nuclear disarmament, including:

(a) Negotiation of a single comprehensive Nuclear Weapons Convention, or a ban treaty which would establish the key prohibitions necessary for the achievement of nuclear disarmament;

(b) A legal framework aimed at Developing a clear time-bound internationally verifiable and transparent road map for achieving nuclear disarmament;

(c) Step by step or building blocs within clearly identified elements including a number of free standing instruments or treaties dealing with specific aspects of nuclear disarmament;

(d) A combination arrangement which might include elements of all or any of the above options, or new elements;

Friday, 23 May 2014, 10:00 a.m.–1:00 p.m.

Nuclear disarmament framework (related legal instruments)

14. This segment also dealt with measures related to accelerating progress towards a world free of nuclear weapons, such as:

(a) Negotiation of a legal agreement among nuclear-weapon States on "no-first-use" of nuclear weapons;

(b) Negotiation of a treaty banning the production of fissile material for nuclear weapons and other explosive devices;

(c) The universalization of the NPT;

(d) The entry into force of the Comprehensive Test Ban Treaty (CTBT);

(e) Adoption of legally binding measures to enhance the security of nuclear weapons and to reduce the operational readiness of nuclear-weapons systems;

(f) Providing legally binding negative security assurances;

(g) Enhancing the role of nuclear-weapon-free zones and broadening their reach by establishing new zones where they do not already exist, particularly in the Middle East;

Friday, 23 May 2014, 3:00–6:00 p.m.

Confidence building measures, the way forward

15. Confidence building measures needed to initiate negotiations.

16. Building upon the common ground among the different stakeholders to achieve nuclear disarmament;

17. Enhancing principles on transparency, irreversibility, verification of nuclear disarmament, including data sharing, international monitoring system, consultation and clarification procedures, on-site inspections, registry;

18. Mechanism for providing information on number and types of nuclear weapons in current arsenals and status on weapons and delivery systems removed from active service or dismantled, and conversion efforts;

19. Reducing the operational readiness of deployed nuclear systems, de-alerting and de-activation of nuclear weapon systems;

20. Reduction of the role of nuclear weapons in security policy;

21. Nuclear-weapon States to fulfill disarmament obligations under the NPT;

22. Mechanisms and preliminary steps needed to initiate negotiations;

23. Establishment of an ad hoc committee to lead the negotiations;

24. Timing and scope of negotiations on nuclear disarmament;

25. Should the Conference on Disarmament be provided with a broad negotiating mandate? How could this mandate be reflected in a programme of work?

Appendix II

Remarks by the Coordinator

1. On March 26th, 2014 the Conference on Disarmament agreed in its decision CD/1987 that "while continuing to seek the path towards renewed negotiations, it is important that the Conference holds structured and substantive discussions on all the items listed in its agenda contained in document CD/1965". To this end the President of the Conference on Disarmament decided to hold a series of informal open-ended meetings. Today, the Conference proceeds with the informal meetings on agenda items 1 "Cessation of nuclear arms race and nuclear disarmament" and 2 "Prevention of nuclear war, including all related matters", with a general focus on nuclear disarmament.

2. The United Nations, ever since its inception, has sought to eliminate nuclear weapons. The first resolution adopted by the United Nations General Assembly in 1946, a year after the detonation of nuclear weapons in Hiroshima and Nagasaki, sought, inter alia, to deal with problems related to the discovery of atomic energy. The resolution called for proposals for "the elimination from national armaments of atomic weapons and of all other major weapons adaptable to mass destruction".

3. In 1978, the First Special Session of the General Assembly on Disarmament (SSOD-I) identified the "general and complete disarmament under effective international control" as the "ultimate objective", while nuclear disarmament and prevention of nuclear war was described as "the highest priority". The International Court of Justice, in its 1996 advisory opinion, concluded unanimously that there exists an obligation to pursue in good faith and bring to a conclusion negotiations leading to nuclear disarmament in all its aspects under strict and effective international control.

4. A number of multilateral legal instruments attempted to address issues related to the cessation of the nuclear arms race and nuclear disarmament, notably among them is the Treaty on the Non-Proliferation of Nuclear Weapons. However, almost seventy years after the first United Nations General Assembly resolution, nuclear weapons are still present and has the potential to create humanitarian catastrophe if nuclear detonation ever to take place whether by design, miscalculation or accident.

5. A wide range of resolutions on nuclear disarmament are tabled in the First Committee of the United Nations General Assembly every year. The most recent of which is resolution 68/32 adopted on 5 December 2013, entitled "Follow-up to the 2013 High-level Meeting of the General Assembly on Nuclear Disarmament". The resolution called for the urgent commencement of negotiations in the Conference on Disarmament for the early conclusion of a comprehensive convention on nuclear weapons to prohibit their possession, development, production, acquisition, testing, stockpiling, transfer, use or threat of use and to provide for their destruction.

6. The item "cessation of the nuclear arms race and nuclear disarmament" has been on the agenda of the Conference on Disarmament since its inception. While consensus on a program of work remains illusive, the Conference on Disarmament has often held substantive discussions on items 1 and 2 of its agenda from 2006 to 2012. It has to be emphasized that the way of approaching the issue of nuclear disarmament in the Conference on Disarmament over these years has developed. However, there is still need for further discussion to elaborate concepts and bridge positions.

7. The Conference on Disarmament does not operate in a vacuum untouched by the broader security environment. Certain developments outside the Conference impact its

work. Recently and due to the growing concern on the lack of development on nuclear disarmament, several important developments took place outside the Conference on Disarmament, namely, the two conferences on the humanitarian consequences of nuclear weapons in Oslo in 2013 and Nayarit in 2014, the follow-up process to the United Nations General Assembly High-level Meeting on nuclear disarmament, the Open-ended Working Group on taking forward nuclear disarmament negotiations, the Nuclear Summit in Hague March 2014, the United Nations Disarmament Commission session in April 2014 and Preparatory Committee for the 2015 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons. All of these events substantiate the need to address the issue on nuclear disarmament in the Conference on Disarmament.

8. The purpose of the informal meetings was to promote better knowledge and understanding of the different aspects on nuclear disarmament and engage in an interactive dialogue and brainstorming on how to address the elements and approaches needed to achieve nuclear disarmament. It is hoped that the 2014 informal meetings on agenda items 1 and 2 provided an opportunity for in-depth discussions that might underscore the common grounds for the commencement of substantive work in the Conference on Disarmament. What made this year's discussions distinctive is hopefully, its timeliness; comprehensiveness; attention to existing commitments as well as inclusive solutions for existing differences.

9. A work plan prepared by the Coordinator was distributed by the Secretariat last week to all distinguished members of the Conference on Disarmament. The work plan included a list of topics for the purpose of facilitating a structured discussion at the informal meetings on the substance of agenda items 1 and 2, with a general focus on nuclear disarmament. Members that wished to raise any issue relevant to the informal discussions were allowed to do so, as is the normal practice of the Conference. The discussions focused on an overview of nuclear disarmament, elements and approaches of legally binding commitments towards nuclear disarmament, related measures to accelerate progress towards a world free of nuclear weapons, confidence building measures and the way forward.

Appendix III

Some legal elements and approaches for achieving nuclear disarmament presented by Mr. Tim Caughley from UNIDIR on Thursday, 22 May 2014

1. The paper is not a complete survey, but merely a sample of relevant initiatives, proposals and papers.

Elements required for the achievement of nuclear disarmament: Key prohibitions

2. To be able to achieve nuclear disarmament, certain key prohibitions will need to be established through legally binding commitments. These may include obligations:

(a) not to retain, produce, develop, acquire, test, deploy, stockpile, maintain, transfer or finance the development of nuclear weapons;

(b) not to retain, produce, develop, acquire, test, deploy, stockpile, maintain, or transfer related nuclear materials, delivery systems and components,

(c) not to use or threaten to use nuclear weapons;

(d) to destroy or convert for non-weapon purposes all production and development facilities, as well as delivery systems, and command and control facilities; and

(e) to place under international safety controls, materials for nuclear weapons (highly-enriched uranium, uranium-233, plutonium, tritium, etc.).

3. To implement these obligations effectively, it will be necessary to agree on some or all of the following aspects:

(a) definitions;

(b) phases or stages or seque: ces for implementation;

(c) verification;

(d) an implementing secretariat or international agency;

(e) individual declarations by nuclear weapon states on aspects of elimination specific to each such state;

(f) national implementation through enactment of appropriate domestic laws;

(g) cooperation, compliance and dispute settlement; and

(h) final clauses on entry into force, signature, ratification and accession, financing, amendments, withdrawal, reservations, etc.

4. In addition to declarations (above), there are likely to be - as in the Chemical Weapons Convention - various annexes and protocols on handling confidential information. Some details of verification, confidence building measures, nuclear activities, delivery vehicles and disposition of special nuclear materials may also be set out in annexes.

Approaches on how to achieve nuclear disarmament

5. Approaches on how to achieve nuclear disarmament can be categorised as follows:

(a) the legal vehicle or vehicles or means of achieving nuclear disarmament;

(b) a mixture - that is, a legally binding process describing agreed stages by which nuclear disarmament would be achieved and prescribing the legal form of them; and

(c) descriptions of possible processes for making progress in the interim towards the initiation of legally binding processes for achieving nuclear disarmament.

The legal vehicle or vehicles or means of achieving nuclear disarmament

6. Under this heading, the most commonly mentioned treaty-based approaches are:

7. A comprehensive **Nuclear Weapons Convention**, an example of which is the model Nuclear Weapons Convention tabled in the United Nations General Assembly by Costa Rica and Malaysia (A/C.1/52/7), discussed in the Conference on Disarmament, Open-ended working group to develop proposals to take forward multilateral nuclear disarmament negotiations for the achievement and maintenance of a world without nuclear weapons and in the NPT. The Convention would prescribe prohibitions and general obligations for effecting a time-bound, irreversible and verifiable nuclear disarmament treaty, complementing the Biological and Toxin Weapons and Chemical Weapons Conventions. This approach more or less seeks to achieve the elimination of nuclear weapons in a single, legally binding step, although it would supplement existing treaties such as the NPT and Comprehensive Test Ban Treaty (when in force). And while it would encapsulate nuclear disarmament in a single treaty it nonetheless entails a staged approach for elimination over five, time bound phases.

8. Negotiating a comprehensive nuclear disarmament regime in one instrument would clearly be ambitious and complex, and its critics prefer to tackle the phases in separate legal instruments.

9. A **Convention Prohibiting the Use of Nuclear Weapons**. In 1961, the United Nations General Assembly adopted resolution 1653 (XVI) declaring the use of nuclear weapons "a crime against mankind and civilization". A Convention on the Prohibition of Use of Nuclear Weapons was proposed by India originally in 1978 and in a United Nations General Assembly resolution in 1982 and in the Conference on Disarmament (CD/1816) in 2007. India argued that reducing the salience of nuclear weapons in strategic and security doctrines and policies was essential for realizing the goal of complete elimination of nuclear weapons. Alignment of nuclear doctrines to a posture of 'no-first-use' and non-use against non-nuclear-weapon states by all nuclear weapon states would, in India's view, be an important step towards achieving that objective.

10. Critics of an approach that would only prohibit use argue that, on its own, it would still leave nuclear weapons in the hands of existing possessors unless it was coupled with binding commitments leading to time bound elimination. There is also the question, raised by the International Court of Justice in its 1996 advisory opinion, as to whether use in self-defence would be outlawed by a prohibition on use.

11. **No First Use Convention**. This approach envisages a binding legal commitment by nuclear-armed states that they would never, under any circumstances, be the first to use nuclear weapons. The International Commission on Nuclear Non-proliferation and Disarmament said that it was clear from the soundings they had taken that international civil society organizations were unlikely to be enthusiastic about a treaty "which (even if 'no first use' is acknowledged as a useful station on the way to zero) is not itself premised on the elimination of nuclear weapons" (www.icnnd.org).

12. A **Nuclear Weapons Ban Convention**. Such a treaty would set out the prohibitions required for the pursuit, achievement and maintenance of a world free of nuclear weapons. It would prohibit the parties from engaging in any activity related to the use, development, production, stockpiling, acquisition, deployment, transfer or financing of nuclear weapons. This approach might explicitly or tacitly recognise that further legally binding steps would be needed to secure the elimination of nuclear arsenals.

13. Detractors of this approach argue that it would be sustainable only if the nuclear weapons possessing states participated and became party to the resulting treaty. On the other hand, the case against proliferation of nuclear weapons – supported strongly by all countries including nuclear-weapon States - rests heavily on their prohibition. The recent paper of NGOs Reaching Critical Will and Article 36 on a legal framework for the prohibition and elimination of nuclear weapons explores these issues further.

A framework - that is, a legally binding process describing agreed stages by which nuclear disarmament would be achieved

14. An interim step, pending the negotiation of an agreement of the kinds just outlined, would be to negotiate a legally binding framework under which nuclear disarmament would be achieved on a serial basis through completing the various stages set out in that framework – that it, a treaty-based recipe for the route to eventual elimination. Examples are the Convention on Certain Conventional Weapons with its 5 Protocols and the Geneva Conventions on the law of armed conflict with their Additional Protocols.

15. In his five-point proposal for nuclear disarmament referred to as the action plan for nuclear disarmament, the United Nations Secretary-General described that approach as "a framework of separate, mutually reinforcing instruments". Recently, this point was expanded slightly in a paper tabled in the NPT by the New Agenda Coalition. That paper envisaged a step-by-step or building blocks approach within "clearly identified elements including a number of free standing instruments or treaties dealing with specific aspects of nuclear disarmament".

16. In these examples, use of the word "instruments" could conceivably be interpreted flexibly to include **non**-legally binding frameworks. If so, it might be a matter for discussion in this Conference as to whether a framework covering something as complex and necessarily lengthy as the sequence of agreements leading ultimately to the elimination of nuclear weapons can be left to a non-binding arrangement. On the other hand, the development of a framework without determining at the outset whether it was to be legally binding might be a useful confidence building measure, offering a new perspective to the Conference on Disarmament deadlock over some of the individual components of a framework such as a fissile material treaty, negative security assurances and nuclear disarmament in general.

Descriptions of possible processes or rationales for making progress on or achieving nuclear disarmament

Sequential stages towards elimination

17. There is not time or space here to list all the proposals, processes or means of making progress on nuclear disarmament favoured by states and groups of states. Some of them are inherent in legally binding approaches just described. The most commonly voiced involve the idea of sequential stages towards elimination. These include general descriptions such as building blocks, step-by-step or phased approaches. In reality, such descriptions do not - on their own - take us very far. Not only are the next steps deadlocked or unavailing (e.g., programme of work in the Conference on Disarmament, entry into force of the CTBT), but also it is axiomatic that in something as complex politically and

technically as the verifiable elimination of nuclear weapons a **series** of measures is inescapable. A challenge for those advocating a step-by-step or building blocks or phased approach is to articulate clearly the actual steps or blocks or phases and their sequence.

Additional specific proposals or possible approaches

18. Timebound: A programme of action was tabled in the Conference on Disarmament by the Group of 21 in August 1996 calling for negotiations on a phased programme of nuclear disarmament for the eventual elimination of nuclear weapons with a specified time frame as soon as the Comprehensive Test Ban Treaty negotiations were concluded.

19. Venue for negotiations: In 1998 South Africa proposed that the Conference on Disarmament establish an ad hoc committee on nuclear disarmament to deliberate upon practical steps for systematic and progressive efforts to eliminate nuclear weapons as well as to identify if and when one or more such steps should be the subject of negotiations in the Conference. That same year Canada proposed that the Conference on Disarmament establish such a committee with a view to identifying if and when one or more nuclear disarmament issues might be negotiated multilaterally.

20. "Effective measures": The New Agenda Coalition recently tabled a paper in the NPT with a number of options for the development of "effective measures" drawing on the wording of article VI of the NPT. One of those options, as already mentioned, is a framework arrangement of mutually supporting instruments aimed at achieving and maintaining a world free of nuclear weapons.

21. Nuclear Weapons Free Zones: Another approach sometimes pondered in the margins might be to develop and expand nuclear weapon free zones, perhaps through focusing first on similarities amongst existing zones and then by exploring scope for synergies amongst them.

22. And lastly among this small sample of approaches are action plans: In the case of the NPT, there are the 13 steps of the 2000 Review Conference, reiterated (though modified) in the more comprehensive 2010 action plan.

Rationales for nuclear disarmament

23. Under this heading, it should be mentioned (even though its context here is related more to the NPT than the Conference on Disarmament) that the rationales of the NPT are threefold: to prevent the spread of nuclear weapons and weapons technology, to promote cooperation in the peaceful uses of nuclear energy and to further the goal of achieving nuclear disarmament as part of general and complete disarmament.

24. Finally, a rationale for nuclear disarmament that appeared in the agreed principles and objectives in the 2010 NPT action plan included, amongst others, deep concern at the catastrophic humanitarian consequences of any use of nuclear weapons. Presumably, agreed principles and objectives such as this one are seen as offering a rationale for all the legal vehicles outlined under section (a) above.

To summarise

25. There is a reasonably clear list of legal obligations that will be required to secure nuclear disarmament on a multilateral basis.

26. There is also a range of legal vehicles through which those obligations can be expressed.

27. In the meantime, in order to get down to the task of actually negotiating those vehicles, various approaches or frameworks are possible and warrant consideration, whether they are of a legally or politically binding nature.

28. In exploring the way forward – as in this informal meeting, a number of rationales for and approaches to nuclear disarmament are also in play.

29. Understanding and clarifying what is contemplated by the various approaches outlined here will be an important precursor to progress towards setting a legal course to the elimination of nuclear weapons.

30. This forum, which includes all nuclear weapons-possessing states, is an obvious starting point for clarifying objectives, mechanisms and vehicles, although the open-ended working group to develop proposals to take forward multilateral nuclear disarmament negotiations for the achievement and maintenance of a world without nuclear weapons and at least theoretically the NPT have potential in affording wider representation of States and the presence of civil society. Progress on nuclear disarmament – the oldest issue on the Conference on Disarmament agenda – may be the touchstone of this body's future.

Annex II

Report on the informal meetings of the Conference on Disarmament on agenda items 1 and 2 with a general focus on the ban of the production of fissile materials for nuclear weapons and other explosive devises held from 4 to 6 June 2014

Submitted by Mr. Michael Biontino, Ambassador and Permanent Representative of Germany to the Conference on Disarmament

1. According to the decision CD/1978 of the Conference on Disarmament at its plenary of 26 March 2014, a series of informal open-ended meetings were held on agenda items 1 and 2 with a general focus on the ban of the production of fissile materials for nuclear weapons and other explosive devices from 4 to 6 June in Geneva.

2. The meetings were coordinated by Mr. Michael Biontino, Ambassador, Permanent Representative of the Federal Republic of Germany to the Conference on Disarmament.

3. The discussion followed the structure as proposed by the Coordinator in his letter of 21 May 2014 and covered in particular the elements of how to take forward the discussions/negotiations in the Conference on Disarmament on the ban of the production of fissile materials for nuclear weapons and other explosive devices, its scope, required definitions, the appropriate verification system and legal and institutional aspects of a future Treaty.

4. At the outset a brief reference was made by the Coordinator to the general framework in which a ban of the production of fissile materials for nuclear weapons and other nuclear explosive devices has been or is currently being discussed:

5. On the basis of the General Assembly resolution 48/75 L entitled "Prohibition of the Production of Fissile Material for Nuclear Weapons or Other Nuclear Explosive Devices" of 1993 it was concluded that the Conference on Disarmament would indeed be the appropriate body to negotiate a "non-discriminatory multilateral and internationally and effectively verifiable treaty" to ban the production of fissile material for nuclear weapons or other nuclear explosive devices.

6. Subsequently, the then Ambassador of Canada was tasked to collect the views of the Conference on Disarmament members concerning a treaty in 1994. One year later, he published his report CD/1299 which has become known as the "Shannon Mandate". According to this contribution, the Conference on Disarmament finally managed to set up an Ad-Hoc-Committee in 1998 which unfortunately could not carry out its mandate due to a lack of consensus on the programme of work. Finally, in 2009 - one decade later - the Conference on Disarmament in CD/1864 was able to reach consensus on a programme of work and established a Working Group which was assigned to negotiate a treaty banning the production of fissile material for nuclear weapons or other explosive devices on the basis of the document CD/1299 and the mandate contained therein.

7. Between 2006 and 2012 the issue of banning the production of fissile materials has been continuously discussed in the Conference on Disarmament, and is of course one of its "core items". It has been addressed both in informal as well as plenary meetings, working

papers as well as in expert side events upon the initiative of a number of the Conference on Disarmament member States. However, the Conference on Disarmament has not yet seen a thorough discussion of the more technical details of a future treaty.

8. Recent contributions to revive the debate on a fissile material cut-off treaty (FMCT) were initiated by Canada in the United Nations General Assembly in 2012. A Group of Governmental Experts was tasked to meet for four two-week sessions in 2014 and 2015 to elaborate "recommendations on possible aspects that could contribute to, but not negotiate a treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices" on the basis of General Assembly resolution 67/53. The Group of Governmental Experts started its work in March 2014 and report to the General Assembly at its 70th Session. It is important to note that General Assembly resolution 67/53 establishing the Group of Governmental Experts stipulates" should the Conference on Disarmament agree upon and implement a balanced and comprehensive programme of work that includes negotiation of a treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices, the group of governmental experts shall conclude and its work shall be submitted to the Secretary-General for onward transmission to the Conference on Disarmament".

9. In the following, the main conclusions of the meetings will be summarized. This report, according CD/1978, is presented in the personal capacity of the Coordinator.

How to take forward discussions/negotiations in the Conference on Disarmament on a ban of the production of fissile materials for nuclear weapons and other explosive devices

10. In general, a sense of urgency to start negotiations was stated since the groundwork on a ban is already laid. In this context previous efforts were recalled which have been undertaken to initiate negotiations. Hence, the commencement of negotiations on a non-discriminatory, multilateral, internationally effective and verifiable Treaty as the next logical step in the context of nuclear non-proliferation and disarmament was a central point made in the discussion.

11. It became clear that the divergences on the scope of a future ban persist, especially with regard to the issue of the inclusion of existing stockpiles and how to deal with them.

12. On the one hand, a widely shared and strong argument was made that final clarity on the scope of a ban should not be a prerequisite for the start of negotiations. On the other hand, the point was made that before entering negotiations, clarity on the scope of a ban was required, in particular in view of its security implications.

13. There was a widespread understanding, without commanding complete consensus, of the continued significance of the Shannon-Report of 1995 (CD/1299), and the mandate contained therein, as a starting point for negotiations, not an end point, on a ban within the Conference on Disarmament. The point was made that its constructive ambiguity should allow for all concerns to be adequately considered.

14. The point was made that these negotiations, as one of the core issues of the Conference on Disarmament, should be part of a balanced programme of work. Numerous references were made in this context to CD/1864 of 2009 which contained the last programme of work that commanded consensus.

15. There was common agreement that a ban should be negotiated in a way to make it a decisive step towards non-proliferation and disarmament. However, the point was made that a ban which merely covers future production would not satisfy this requirement, and

the necessity of a ban – as a decisive impediment to stop horizontal and vertical proliferation including measures against nuclear terrorism - was underlined.

16. An essential element of the discussion was the common view that the Conference on Disarmament should remain the appropriate body to negotiate a ban as one of its four core items. However, in the case of a persistent stalemate of the Conference on Disarmament, mention was made of conducting these negotiations in other *fora*.

17. Many delegations underlined the overall importance of the international security context in which discussions on a ban take place. Equal and undiminished security as a central element of nuclear disarmament would be a central consideration. Some states also pointed out that regional stability and the concrete security environment of states should be promoted.

18. There was a widespread view that practical and realistic steps to move towards a ban would be the order of the day. In this context the point was made that negotiations on a ban should be embedded in a wider approach towards nuclear disarmament.

19. The argument was made that a ban should be indiscriminate between nuclear weapon states and non-nuclear weapon states, should have equal obligations for all and should ideally level out existing imbalances in the existing nuclear non-proliferation and disarmament regimes.

20. The principle of irreversibility as central element for the credibility of a possible ban was underlined in this context.

21. As far as the objectives of a future Treaty are concerned, there was widespread view that a ban should strengthen and complement already existing regimes in the area of nuclear disarmament and non-proliferation.

22. There was a shared view that increased trust, confidence, transparency and predictability among nuclear-weapon states and non-nuclear weapon States would be a core benefit of a future ban.

23. Finally, mention was made that a ban should not impede the peaceful civilian use/development of nuclear energy.

Scope of a ban of fissile materials for nuclear weapons and other explosive devices

24. Reference was made to the historical efforts which led to the drafting of the Shannon Report and the mandate contained therein. It was widely noted that this mandate should not be reinterpreted or reopened. However, in this context, some member States also stated that the constructive ambiguity included in the Shannon Report was not sufficient to enable the commencement of substantive negotiations on a treaty.

25. A detailed discussion of concerns was conducted on how existing stockpiles of fissile material should be addressed in the negotiations on a ban of the production of fissile materials for nuclear weapons and other explosive devices. This discussion was seen by many as very useful. In this context the point was made that differences were not as substantial as expected and could be overcome in the course of negotiations. Others were of the view that the issue of whether stockpiles would be included or not should be decided before the commencement of negotiations.

26. In this context, additional clarity was established in the discussion of what could be understood by the inclusion of stocks in the scope of a ban and the concrete notion what is referred to as fissile material to be banned under a treaty.

27. Appreciation was voiced for this open clarification, since it could represent an important contribution for actually starting negotiations for a ban.

28. Many members expressed their view that an eventual treaty could include existing stocks, whether that is within the treaty itself, a Protocol or a parallel agreement. However, the question of the inclusion of stocks should not be a prerequisite for the commencement of negotiations.

29. On the other side of the argument, for a number of States a production cut-off is the only necessary measure to be taken at this point in time. In this context, a number of states indicated that a treaty containing only a cut-off agreement would not be a sufficient measure to contribute to disarmament obligations under Article VI of the NPT and would serve only as an additional non-proliferation measure without creating further obligations for nuclear weapons states under the NPT to disarmament as well as other possessor states.

30. Furthermore, it was also mentioned that a ban was seen as an additional step towards disarmament and a complement to the existing regime, stopping the growth of arsenals and with the potential of leading to reductions in the future.

31. Concerning the precise meaning of what is meant by the scope of fissile materials to be covered by the Treaty, the distinction of categories of fissile material was made such as use for nuclear weapons, other non-explosive military purposes (e.g. naval propulsion), declared fissile material in excess of national defence needs and civilian use.

32. Some member States mentioned the feasibility of inclusion of neptunium and americium.

33. Some delegations gave a thought-provoking and comprehensive presentation on specific means to increase transparency through declarations and reporting measures. A number of countries noted the importance of trust for the start of negotiations and for consolidating the regime of a future treaty.

34. An essential topic of the discussion was the principle of non-discrimination which is seen as a multi-faceted and cross-cutting issue for a future treaty. It has a number of implications on the different aspects covered under the possible treaty, with regard to political, legal, substantive and financial matters.

35. There was an understanding that the concept of non-discrimination needed to be further clarified as the discussion continues on stocks, definitions, verification and legal and institutional aspects.

36. In the context of non-discrimination a number of states issued their view that a ban should not solidify the current status quo enshrined within the NPT regime and that bridging the perceived gap between nuclear and non-nuclear weapons states was one of the core elements of a ban.

37. In this context the point was made that the principle of non-discrimination should be at the heart of the treaty since all obligations under the regime should be non-discriminatory as such.

Definitions

38. There was wide agreement among member states that the focus of definitions should be laid upon the question what constitutes fissile materials, production and production facilities. It was also indicated that the word 'transfers' needs to be defined. A number of States also noted that there is an important inter-linkage between these three main aspects which need to be defined. Furthermore, a triangular relationship of definitions with the other main issues of scope and verification is universally recognized by member States.

39. On the one hand, many countries addressed the possibility to make use of existing IAEA documents such as the Statutes, the Glossary and INFCIRC/153(Corrected) to serve as a basis to define the three main elements of the triangle mentioned above. However the issue was raised that the glossary is not a legally binding document.

40. In this respect, many speakers favoured the term "un-/ radiated direct-use material" to be used for fissile materials under the ban. On the other hand, many other State delegates saw the need to provide specific definitions of fissile materials which are adapted to the purpose of a future treaty. In reference to this, some delegations cited other reports outside of the IAEA regime that it could be helpful to define items of the treaty. Members also commented on the need to find a balance between, on the one hand, a more specific definition which may provide loopholes or on the other land a wider definition which may be less cost-effective and easily verifiable.

41. In addition, member States stressed that the issue of definitions is not only a technical issue, but has also political and legal implications which might require a wider approach.

42. Furthermore, definitions - as a cross-cutting topic - should follow the principle of non-discrimination as has been articulated by some member states.

43. As far as the production of fissile material is concerned, a majority of member States would like to put the focus on uranium enrichment and the reprocessing of plutonium, while others underlined the benefits of taking a broader approach towards definitions of the production. Views were shared on which part of the fuel-cycle activities should be covered under the treaty.

44. Differing perceptions were shared by member States concerning the definition of facilities under the treaty. Many preferred a definition containing only enrichment and reprocessing facilities that produce at least a minimum-quantity of fissile material in order to make verification processes viable. Other member States also pointed out the necessity to include small-scale and closed-down facilities in order to eliminate possible loopholes. Some member States though preferred coverage of the whole fuel cycle.

45. A number of member States reiterated the importance to distinguish clearly between military and civilian nuclear programmes in order to allow countries to pursue an unhindered peaceful use of nuclear energy (for civilian or propulsion purposes). In this regard it was also mentioned by many that the Treaty and any verification obligations should not hinder the peaceful uses of fissile material not prohibited under a ban. The issue of naval fuel was mentioned in addition to which some specific measures could be taken to ensure stocks could not transfer to weapons use, while bearing in mind the sensitive composition of the material.

46. With regard to the inclusion of other transuranic materials in the definitions, many member States focussed their attention on neptunium and americium. A widespread view was shared that while americium had only a limited weapon-usability, neptunium, however, warranted closer consideration and might need to be included in a treaty.

47. As a recurring issue of the debate, many member States preferred definitions that serve the goals of practicability, simplicity and feasibility. Thus, a number of delegations stated that a balance between costs (of verification) and the gained added value (security) deserves careful consideration. To them, a balance between too narrow and too broad definitions is preferable since definitions have immediate repercussions on the possible obligations for member parties.

48. Finally, some member States underlined the need for 'catch-all' provisions in the Treaty that take into account possible future technological developments and scientific advancements.

Verification system

49. During the discussion a number of views were brought forward on the different elements necessary for the verification of a treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices. There was wide agreement that the issue of verification is strongly linked, and dependent, on the issues of scope of the treaty and definition of the material to be prohibited.

50. All member States voiced their view that verification was a primary pillar of the treaty. The point was made that no member state had voiced objections to this principle (of verification under this treaty).

51. It was mentioned by almost all members that a treaty needs to be credible, effectively and internationally verifiable. In addition many members stressed the non-discriminatory nature any verification regime should have, especially on those non-nuclear weapons states party to the NPT.

52. The delicate balance between a focused approach, refined for effectiveness and a broad/comprehensive approach to verification was debated. Special mention was made of the need to closely consider the implications this may have for costs.

53. A need was mentioned by many member States to agree on, and define, a verification standard to ascertain what will give enough confidence in the regime and provide reasonable assurance to signatories.

54. A verification instrument should detect any non-compliance in a timely manner. Verification should ensure no transfer and no diversion of material to prohibited uses and detect undeclared production.

55. Views were brought forward that any verification regime needs to take into account national security concerns and the need to guard sensitive commercial and military information, bearing in mind the Article I of the NPT. Verification should confirm the cessation of production of prohibited material in production facilities, if these facilities have not already been converted to civil use. Facilities mentioned in his regard were enrichment and repossessing facilities that produced material for weapons purposes, conversion facilities were also mentioned.

56. The verification instruments and techniques were also discussed such as routine, special or challenge inspections, managed access, material accountancy, containment and surveillance. In connection, members discussed what the coverage could be of those instruments.

57. Finally a number of member States raised the issue of whether the verification regime should enter fully into force on the entry into force of the treaty itself or that a more phased and gradual application of verification should be applied.

58. The point was made that the precise principles of verification need not be reflected in the main text of a treaty but could be explained in subsidiary documents.

59. Many member States favoured the IAEA as a verifications body or a suitable body within the IAEA independent from the Department of Safeguard. Others mentioned the need for a dedicated fissile material organization. The question was raised to which body any non-compliance should be reported.

Legal and institutional aspects of a treaty

60. Many member States have emphasized the need to take legal and institutional as well as organizational aspects of a possible treaty into account. References to previously published documents of some of the Conference on Disarmament member countries found recognition and were cited during the discussion.

61. On the question of how the treaty should enter into force (EIF) and if specific countries would need to sign up to make the treaty viable and effective, there was some agreement that a balance between quantitative and qualitative approaches should be considered. In this regard, the term of a "hybrid" or "mixed" model was articulated several times. Other delegates stressed that the EIF provisions should be non-discriminatory, should not privilege any country nor should they make references to specific countries who need to ratify the Treaty before it comes into effect

62. When discussing the provisions of the treaty, the point was made that the articles of a treaty should not be subject to any reservations.

63. The possibility was mentioned to add clauses on depositories within the legal parts of the treaty.

64. With regard to the duration of the treaty, member states largely preferred it to be unlimited in its validity. This could be the only possibility to ensure its credibility and irreversibility. Furthermore, the indefinite duration is also applied in some other disarmament agreements, a fact which was mentioned by member States. In this regard, reference was made to the most recent working paper submitted to the 2013 NPT Preparatory Conference, NPT/CONF.2015/PC.II/WP.13/Rev.1 'regarding implementation of the treaty over time: duration, entry into force and withdrawal'.

65. Numerous references were made to the importance of the inclusion of withdrawal provisions under the treaty should extraordinary events, related to the subject matter of a treaty, jeopardise the supreme interests of a country. However, most member states favoured rather restrictive and clearly-defined conditions for states to withdraw from a future ban due to negative effects on the international security environment

66. Regarding the institutional framework, varying points were made. Many member States supported the idea of the IAEA, with its broad experience, to take upon itself the responsibility of such a task. Other member States expressed the view that a treaty needed its own decision-making body regarding issues of implementation, costs and non-compliance. The point was made that the IAEA could be tasked to carry out inspections on behalf of this organization due to its profound expertise and technical know-how in the field, yet with a distinct and separate mandate.

67. Other member States preferred to establish a member-driven executive body (board of governors) charged with verification tasks without necessarily relying on the infrastructure of the IAEA

68. In similar fashion others preferred the establishment of a small and independent secretariat, which could be called the FMCTO.

69. In this context, the point was made of equitably distributing the costs arising from the treaty among states under its rule

70. Member States also discussed the issue of dispute settlement and non-compliance: While some states preferred the United Nations Security Council to take decisions in such circumstances, several other States proposed to deal with such cases within the General Assembly, in order to avoid a case arising whereby a suspected violator would also be a

permanent member of the United Nations Security Council with veto wielding powers. Finally, the International Criminal Court was also mentioned as an option.

71. The necessity to implement regular review and/or amendment conferences to improve or adjust the content of a treaty to future developments was mentioned by a number of member States. Additionally, a possible executive/governing body should meet on a regular basis.

Conclusion

72. In general, the meetings on the ban of the production of fissile materials for nuclear weapons and other explosive devices showed a high degree of inter-activeness. Member States participated vividly in the discussions on a future Treaty, so that clarity on particular positions of member States could be gained. Especially the issue of the scope of the ban was discussed in depth among the member States which is an essential element in any negotiations. Furthermore, the open and professional setting in which the meetings took place deserve recognition. Many delegations expressed their satisfaction concerning the nature of the debate of being exceptionally frank and fruitful. In the light of this insightful informal discussion, the need to continue in depth discussions seems even more urgent.

Annex III

Report of the Coordinator on the informal meetings on agenda item 3 "Prevention of an Arms Race in Outer Space" held from 11 to 13 June 2014

Submitted by Mr. Matthew Rowland, Ambassador and Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the Conference on Disarmament

1. Pursuant to decision CD/1978 to convene a series of informal open-ended meetings for holding structured substantive discussions on its agenda items, five informal meetings were held on agenda item 3, "Prevention of an Arms Race in Outer Space" from 11 to 13 June. Co-ordination of these informal meetings was conducted by Mr. Matthew Rowland, Ambassador and Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the Conference on Disarmament.

2. Based on the work of the conference on this issue throughout its history, and with the aim of fostering the start of the related substantive work of the conference to facilitate future negotiations following the adoption of a programme of work, thus allowing the Conference on Disarmament to fulfil its mandate, delegations addressed the following three areas:

(a) examination and identification of issues relevant to the prevention of an arms race in outer space;

(b) existing agreements relevant to the prevention of an arms race in outer space;

(c) existing proposals and future initiatives on the prevention of an arms race in outer space;

3. Throughout all of the meetings there was substantive discussion on many aspects of the prevention of an arms race in outer space and there were ample views on key elements of a potential instrument, politically binding or legally binding, affecting space security.

Examination and identification of issues relevant to the prevention of an arms race in outer space

4. The space environment is a complex one and multifaceted. Space had evolved from a power projection arena to one of socio economic development on which many nations depended. Delegations expressed the view that outer space should be used for peaceful purposes and for the benefit of all countries and not become a new area of conflict, with some recalling that peaceful and military usage could go side by side. A view was expressed that space was originally used exclusively by the military and that civilian and commercial usage was a relatively new development. In contrast, many felt that it is the weaponisation of space that needed to be explicitly prohibited. Most believed that the placement of weapons in outer space could contribute to and exacerbate global instability and any arms race in this arena could be very destabilising. For many the best way forward to prevent the weaponisation of space is to engage on negotiations of a legally binding instrument, but for others the legal framework currently regulating space was adequate and transparency and confidence building measures were the most expedient way to address the immediate challenges of the continued exploitation of space.

Existing agreements relevant to the prevention of an arms race in outer space

5. At the outset of this discussion, the Conference heard from Mr. Ben Baseley-Walker (UNIDIR) who gave a presentation on the over-arching space framework currently in existence: critical orbital regions, the physical nature of space, offensive activity, definitions and others. Questions were raised on issues of weaponisation and how it differs from militarisation, definitional aspects of space weapon, and specifically how the Conference on Disarmament could address this. It was also noted that very few NGOs lobby States on space issues. There was also some debate on how to verify a space activity was peaceful and the conflict of interest presented by Article 51 on self defence in the United Nations Charter and using weapons in space. How did the United Nations Charter apply in space? How could the Conference on Disarmament play a part in increasing the security and safety of space based assets, the issue of paramount importance?

6. Some thought that there should be full adherence to the existing regimes before considering others (Outer Space Treaty, Rescue Agreement, Liability Convention) whilst others commented that there was no need to universalise these first given the major space faring nations were already members. There were arguments on both sides.

7. There was some discussion also around the definitional aspects of a space weapon. Would it be possible to disaggregate what the exact components a space weapon would be or its specific purpose? Should types of activity not be allowed in space? Were there advantages of a behavioural approach over a definitional approach in reaching consensus for future initiatives?

Existing proposals and future initiatives on the prevention of an arms race in outer space

8. During this debate the European External Action Service introduced the International Code of Conduct on Outer Space Activities and gave an update as to next steps following the recent Luxembourg meeting. Many believed that the International Code of Conduct on Outer Space Activities was a useful confidence building measure that implemented the recommendations for follow up of the Group of Governmental Experts on transparency and confidence-building measures in outer space activities (TCBMs). Some expressed the view that this measure could be supportive of possible future legally-binding measures on arms control in Space and should be seen as complementary rather as a replacement.

9. The authors of the latest draft Treaty on the Prevention of the Placement of Weapons in Outer Space and of the Threat or Use of Force Against Outer Space Objects recalled their previous draft and highlighted some of the modifications and changes made. There was some discussion around the draft and calls by some to use it as a basis for the way forward although some delegations were not convinced of the utility or viability of such an attempt given varying definitions of space weapons, verification aspects, and the lack of coverage of terrestrial based anti-satellite systems.

10. Finally, the delegations heard from Mr. César Jaramillo, Project Manager of the Space Security Index who spoke about space security and the index.

Conclusion

11. Throughout the meetings there was substantive discussion on many aspects of the Prevention of an Arms Race in Outer Space and there were ample views on key elements of

a potential instrument, whether politically or legally binding. Though the discussion was far from conclusive, there was considerable interest in the matter. Should there be a willingness to take this further, one of the issues that would require more focus is that of definition of a space weapon and what would constitute a hostile act in space.

Annex IV

Report of the Coordinator on the informal meetings on agenda item 4, entitled "Effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons" held from 18 to 20 June 2014

Submitted by Ms. Marta Maurás Pérez, Ambassador and Permanent Representative of Chile to the Conference on Disarmament

1. Pursuant to the mandate contained in document CD/1978 of the Conference on Disarmament, three open-ended informal meetings were held under my chairmanship, with a view to consider agenda item 4, entitled "Effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons". These meetings took place on Wednesday 18 June, Thursday 19 June and Friday 20 June.

2. In order to assist a structured discussion, a letter of possible discussion points on the subject was prepared and circulated beforehand. For the preparation of agenda items, the Coordinator analyzed the work carried out on this subject in 2008 under the chairmanship of Mr. Babacar Carlos Mbaye, Ambassador and Permanent Representative of Senegal, together with the work carried out under the guidance of Mr. Carlos Antonio Da Rocha Paranhos, Ambassador of Brazil, in 2007 and that of Mr. Md. Abdul Hannan, Ambassador and Permanent Representative of Bangladesh, in 2010.

3. For the first meeting, the need to take stock of the present situation was identified. For this purpose, the Conference on Disarmament Secretariat provided with a brief summary of the previous work undertaken by the Conference on Disarmament. In this first session, the general exchange of views focused on the necessary steps to be taken to pave the way towards initiating multilateral negotiations on a negative security assurances agreement. During the first informal open-ended meeting, many delegations, especially P5, took part in an interactive and open discussion to contribute to the work of the Conference on Disarmament.

4. The results of these initial conversations were fruitful, mainly because all States were strongly urged to take part, inviting, in particular, the P5 to put forward the arguments that could restrain their capacity for providing full guarantees.

5. The second day meeting, tackled the legal and political challenges that need to be overcome in order to reach an agreement on negative security assurances. The resulting discussion was quite comprehensive, concentrating on the following topics

(a) Arguments put forward by nuclear States not to guarantee the safety of non-nuclear States.

(b) The case of military alliances between non-nuclear-weapon States and nuclear-weapon States. Do such alliances nullify negative security assurances?

(c) The relation between negative security assurances and the effectiveness of the Treaty on Non-Proliferation of Nuclear Weapons and its Plan of Action.

(d) Possible means of verification of a future treaty.

(e) Sanctions for non-compliance with a future treaty and the role of the International Court of Justice and the International Criminal Court.

(f) Change in the security doctrines of nuclear-weapon States and the role of nuclear weapons in the case of the conclusion of a Treaty

(g) The necessity of lowering hair-trigger alert levels of arsenals in the context of a future treaty.

(h) Negative security assurances in the light of new developments and actions within the framework of Nuclear Disarmament (the Humanitarian Impact of Nuclear weapons, the request presented by the Marshall Islands to the International Court of Justice, the 2015 NPT Review Conference etc.) and,

(i) The relation between negative security assurances and nuclear-weapon free zones.

6. According to the Coordinator's opinion, the second open ended working group was the most enlightening of the three, as it helped understand the different factors at play, and the diversity of visions.

Brief summary of the discussion points of the session

7. In general the P5 indicated that they have embraced their responsibilities within the framework of the NPT and, as permanent members of the Security Council, they have specifically given guarantees to "responsible" NPT States. Reference was made to the unilateral declarations of 1996.

8. The P5 indicated that they will not use nuclear weapons against any country that is not in possession of nuclear weapons, unless their vital interests are at stake; they (or their allies) are invaded or they are attacked in alliance with a nuclear country.

9. Reference was made to the necessity to move forward with a pragmatic approach, that is, on the framework of free zones and in a step-by-step manner.

10. Some delegations suggested that consideration of the negative security assurances in the Conference on Disarmament is not a priority. The only logical next step for them would be the fissile material cut-off treaty.

11. One delegation noted that it has provided assurances to 120 States, within the framework of the free zones, and they are willing to continue to expand the number of insured States, as long as their interests are guarded. This delegation further noted that the non-nuclear States should comply with the resolutions of the Security Council. Furthermore, they stated that they fail to see the political or strategic importance of this matter.

12. Another delegation noted that it did not see the need to negotiate a binding instrument that would give legal guarantees to the non-nuclear States. This intervention was answered by several delegations, giving different arguments to the contrary.

13. A delegation of the P5 pointed out that they are willing to join a Convention on negative assurances since, in their case, they only have nuclear weapons in order to respond to an attack of this nature. However, they stressed that before starting this process, there should be further discussion on the need to determine the usefulness and legality of "extended nuclear deterrence" in the case of military alliances.

14. It was pointed out by several delegations that there is no relationship, and there should not be one, between the negative security assurances and the NPT, since the NPT does not provide any item regarding the use of nuclear weapons; nor is there an intrinsic relationship between free zones and guarantees, to be complemented by the negative security assurances.

15. Many delegations indicated that negative security assurances should be unambiguous, uniform and mandatory. An active delegation indicated that, after half a century, this is already a mature issue that is ready to be negotiated, and furthermore, on the understanding that a nuclear attack on a State that does not possess a similar response capability is strategically - and morally - unacceptable. The same delegation said that it is willing to give negative security assurances to States, through a treaty, while these guarantees do not imply nuclear disarmament or the reduction of arsenals, and should not cause additional financial burdens.

16. Many delegations stated that the only absolute guarantee for negative security assurances is the total elimination of nuclear weapons.

17. All delegation noted that the Conference on Disarmament should be the most appropriate forum for negotiating a universal treaty on negative security assurances.

18. Many delegations also noted the current instruments on negative security assurances. These instruments include the relevant resolutions of the United Nations Security Council and the First Committee of the United Nations General Assembly; the unilateral declarations by nuclear-weapon States; the outcomes of NPT Review Conferences; and the nuclear weapon free zone treaties and their protocols.

19. During the third meeting, specific positions were clearly heard based on political and strategic considerations. Nevertheless, the meeting could not identify any undefeatable obstacles, despite defining the following three clear positions:

(a) Non-binding negative security assurances/linked via protocols to the nuclear-weapon-free zones;

(b) Non-binding negative security assurances/only for States party to the NPT to comply with their obligations of non-proliferation universally binding guarantees embodied in a treaty; and

(c) Inaction of the matter, pending consensus.

20. Although there was no final agreement on any particular issue or area, the discussion provided a rich exchange of ideas and concrete clarifications that should help subsequent work of the Conference on Disarmament on the issue of negative security assurances. It is the Coordinator's opinion that the Conference on Disarmament should establish a subsidiary body, dedicated to the analysis of this issue and, in addition, seek alternative options to reaching a consensus on a legally binding treaty on the subject.

21. The Coordinator is personally optimistic on the future work regarding negative security assurances, in the context of the Conference on Disarmament. Obviously the States parties need more time to analyze the different views regarding this topic. For these reasons, the Coordinator strongly believes a subsidiary body would be a viable and productive alternative.

Annex V

Report of the Coordinator on the informal meetings on agenda items 5 "New types of weapons of mass destruction and new systems of such weapons; radiological weapons", 6 "Comprehensive programme of disarmament" and 7 "Transparency in Armaments" held from 25 to 26 June 2014

Submitted by Mr. Mikhail Khvostov, Ambassador and Permanent Representative of Belarus

1. According to the schedule of activities, contained in the CD/1978, the informal open-ended meetings of Conference on Disarmament on agenda items 5, 6 and 7 took place on 25 and 26 June 2014.

2. While preparing these informal meetings, the experience from the previous Conference on Disarmament sessions was taken into account, including the informal discussions chaired by the Coordinator on agenda item 5 in 2010 and on agenda items 5, 6 and 7 in 2011. The recent proposals of Mr. Michael Moller, the Acting Secretary-General of the Conference on Disarmament on revitalization of the Conference on Disarmament were accounted as well.

3. To facilitate the preparation of the delegations to these informal meetings, a letter from the coordinator dated 18 June 2014 was distributed through the Conference on Disarmament Secretariat to member and observer States. This letter reminded delegations the compilations prepared by the Conference on Disarmament Secretariat (documents CD/INF.55, 6 September 2006; CD/INF.52, 11 August 2006 and CD/INF.54, 5 September 2006), which contain basic documents submitted for consideration of the Conference on Disarmaments from 1979 to 2006 and related to the issues "new types of weapons of mass destruction and new systems of such weapons; radiological weapons"; "comprehensive programme of disarmament" and "transparency in armaments". It was also reminded that background descriptive information about past deliberations of the Conference on the Conference on Disarmament agenda items 5, 6 and 7 is contained in UNIDIR's publication entitled "The Conference on Disarmaments: Issues and Insights" issued in 2012.

4. For the purpose of stimulating the debates external experts were invited to provide an introduction to agenda item 5 and agenda items 6 and 7 respectively.

5. In the letter dated 18 June 2014 it was proposed to organize the informal open-ended meetings according to the following working plan.

(a) On agenda item 5 "new types of weapons of mass destruction and new systems of such weapons; radiological weapons":

(i) A brief introduction by Mr. Sergey Batsanov, Ambassador, Director of Geneva Office of Pugwash Conferences on Science and World Affaires, member of Pugwash Council.

(ii) General statements.

(iii) Relevance of item 5 for the Conference on Disarmament agenda. Could it be considered that this Conference on Disarmament agenda item could become a platform for revitalization of Conference?

(iv) Adequacy of existing international law and international humanitarian law to prohibit any possible development of any new types of weapons of mass destruction.

(v) Which international legal instruments have particular importance in the field of non-proliferation of new types of weapons of mass destruction?

(vi) Value of established review procedures to determine the legality of new weapons, means and methods of warfare, based on provisions of Article 36 of 1977 Additional Protocol to the 1949 Geneva Conventions and in accordance with the recommendations the 28th International Conference of the Red Cross and Red Crescent, held in 2003.

(vii) Possible legal approaches for prohibition of new types of weapons of mass destruction.

(viii) Concrete types of weapons, having the same serious and indiscriminative effects as of the already prohibited weapons of mass destruction.

(ix) Radiological weapons ban.

(x) So-called "dirty bomb" threat and radiological terrorism.

(xi) United Nations General Assembly resolutions calling the Conference on Disarmament to keep the issue under active consideration.

(xii) Specific recommendations with regard to possible way forward on agenda item 5.

(b) On agenda item 6 "comprehensive programme of disarmament":

(i) A brief introduction of the Conference on Disarmament agenda items 6 and 7 by Mr. Daniel Plesch (Director of the Center for International Studies and Diplomacy, SOAS, University of London).

(ii) General statements.

(iii) Relevance of item 6 for the Conference on Disarmament agenda.

(iv) Charter of the United Nations, and the Final Document of the First Special Session of the United Nations General Assembly on Disarmament in 1978 (SSOD I) as a guidance to elaborate Comprehensive programme of disarmament.

(v) Principle of "undiminished" security and its applicability in reduction of the conventional armaments and in the context of weapons of mass destruction.

(vi) Do you consider that this Conference on Disarmament agenda item could become a platform for revitalization of Conference?

(vii) Which new international instruments relating to issues of disarmament and the strengthening of international security could be potentially negotiated on the Conference on Disarmament under agenda item 6?

(c) On agenda item 7 "transparency in armaments":

(i) General statements.

(ii) Relevance of item 7 for the Conference on Disarmament agenda.

(iii) Which existing international legal instruments and voluntary measures have particular importance in the field of transparency in armaments?

(iv) Confidence-building potential of transparency in armaments.

(v) Supporting role of transparency in armaments in disarmament and arms control negotiations.

(vi) United Nations Register and possible ways of modification of its scope.

(vii) Unilateral transparency measures concerning nuclear arsenals and other weapons of mass destruction.

(viii) Regional aspects of transparency.

(ix) Norm banning the transfers of weapons to terrorists.

(x) Which additional international legal instruments and voluntary measures could further promote transparency in armaments?

6. Delegations made use of the proposed plan and undertook deliberations of more general character.

7. In the course of organization and coordination of the debates on agenda items 5, 6 and 7 the endeavour was pursued in a comprehensive manner and without preconditions, taking into account all relevant past, present and future views and proposals and taking into account that these discussions are neither pre-negotiations nor negotiations, as it was reflected in the CD/1978.

Key outcomes on agenda item 5 "New types of weapons of mass destruction and new systems of such weapons; radiological weapons"

8. The delegations found useful for the discussion an introductory presentation made by an invited external expert, Mr. Sergey Batsanov, Ambassador.

9. In the course of the discussions, the delegations made use of the opportunity to update and validate their positions on specific issues related to this agenda item.

10. A number of the delegations indicated relevance of item 5 for the Conference on Disarmament agenda. While some delegations reflected that they consider agenda items 1-4 as a key ones, other delegations indicated their flexibility to start substantive work at the Conference under agenda item 5.

11. Some delegations touched upon an issue of adequacy of existing international law and international humanitarian law to prohibit any possible development of any new types of weapons of mass destruction. One delegation especially stressed that the developments of all new systems of weapons should comply with existing international law and international humanitarian law. Another delegation reflected on the importance of the Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques as well as specific provisions of the Additional Protocol I of 1977 to the Geneva Conventions of 1949. The same delegation reiterated its support to the idea of negotiating an international treaty (convention) on the prohibition of the development and manufacture of new types of weapons of mass destruction and new systems of such weapons as a preventive measure in the field of non-proliferation of new types of weapons of mass destruction.

12. Some delegations indicated the significance of the United Nations General Assembly resolutions on prohibition of the development and manufacture of new types of weapons of mass destruction and new systems of such weapons as well as the United Nations General Assembly resolutions on measures to prevent terrorists from acquiring weapons of mass destruction.

13. Some delegations indicated that they will not oppose the reestablishment of subsidiary body within the Conference on Disarmament to consider the issue of radiological weapons.

14. A number of delegations indicated that so far the radiological weapons were neither manufactured, nor used as method of warfare by States. On the other hand, delegations recognized potential threat of use of radiological weapons by non-governmental armed groups or terrorists.

15. Some delegations urged the Conference to start consideration on the issue of cyber security and cyber warfare due to the fact that the use of some modern technologies as a means of war could produce devastative effects, comparable with the use of weapons of mass destruction. While another delegation pointed out that at present the issue of cybersecurity is under consideration by the Group of Governmental Experts, established in accordance the United Nations General Assembly resolution 68/243. To that end it will be more appropriate to allow the Group of Governmental Experts to complete its mandate and its report.

16. Substantive discussion took place on a working paper related to the weaponisation of radioactive sources, prepared by Mr. Luis Gallegos Chiriboga, Ambassador of Ecuador and Mr. Peter Richard Woolcott, Ambassador of Australia, as Co-Chair and Vice Co-Chair of the Informal Working Group on a programme of work of the Conference. Among others things this working paper explored the arguments both, for and against the possibilities of negotiating a legally binding convention within the Conference on Disarmament on the "weaponisation of radioactive sources".

17. The discussion of this initiative canvassed the following:

(a) While a number of delegations indicated that they are in the process of evaluating the initiative, in general, there were no objections from any member of the Conference on Disarmament participating in the discussions to examining in further detail the merits or proceedings of the proposal.

(b) There was widespread agreement to ensure that the next steps to explore a possible negotiation of a convention dealing with radioactive sources were calibrated carefully with existing processes such as the IAEA's Code of Conduct.

(c) Some delegations stressed that the initiative had the potential for revitalization of the Conference.

(d) Different views were expressed on the issue of scope. For instance, some delegations indicated that the focus should simply be on a convention dealing with the weaponisation of radioactive sources, while others argued that it should extend to the issue of "radiological weapons".

(e) Different views were expressed on the necessity of a verification mechanism within the proposed Convention.

18. The Vice Co-Chair of the Informal Working Group announced his plans to continue deliberations of the proposed initiative in the framework of the Informal Working Group in the meeting held on 28 July.

Key outcomes on agenda item 6 "Comprehensive programme of disarmament"

19. The delegations found useful for the discussion an introductory presentation on agenda items 6 and 7 made by the invited external expert, Mr. Daniel Plesch, Director of the Center for International Studies and Diplomacy by University of London.

20. In the course of the discussions, the delegations made use of the opportunity to update and validate their positions on specific issues related to this agenda item.

21. A number of the delegations indicated the relevance of item 6 for the Conference on Disarmament agenda. Significance of the decision of the First Special Session of the United Nations General Assembly of 1978 (SSOD I) to elaborate a comprehensive programme of disarmament was reconfirmed. At the same time the divergence of views on this issue was recognized.

22. One delegation proposed to renew substantive work on the Conference on Disarmament under this agenda item according to the original mandate of SSOD I. Another delegation pointed out its preference to avoid linkages on the issue of adoption of a comprehensive programme of disarmament with the development of other legal instruments. While other delegations indicated that the elaboration of a comprehensive programme of disarmament is a long-term goal. These delegations indicated that the existing international treaties and conventions in the field of disarmament constitute a good platform on the way forward to the general and complete disarmament under effective international control. It was also stressed that consensus is the necessary precondition for the further elaboration of comprehensive programme of disarmament.

Key outcomes on agenda item 7 "Transparency in Armaments"

23. In the course of the discussions, the delegations made use of the opportunity to update and validate their positions on specific issues related to this agenda item.

24. A number of the delegations indicated relevance of item 7 for the Conference on Disarmament agenda.

25. Many delegations indicated significance of the United Nations General Assembly resolutions related to the issue of transparency in armaments.

26. All delegations recognized the merit of appropriate measures on transparency in armaments for global strategic stability, predictability and trust among the States. The importance of the implementation of these measures at the national level was stressed as well. At the same time a number of delegations were in favour of transparency measures agreed on the basis of a broad consensus. Some delegations also indicated that transparency measures should not infringe upon the rights of States for self-defence in accordance with the United Nations Charter.

27. The important role of the following international mechanisms related to transparency in armaments was mentioned:

- United Nations Register of Conventional Arms;
- United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects;
- Convention on Certain Conventional Weapons;
- Unilateral transparency measures concerning nuclear arsenals.

28. One delegation underlined the importance of a strong reporting mechanism within the framework of the Arms Trade Treaty (ATT) and was in favour for an early entry into force of the Treaty. Some States indicated that they are currently in the process of evaluating the ATT prior to its signature and ratification.

29. Several delegations expressed their positions to continue to explore possible ways to modify the scope of the United Nations Register of Conventional Arms.

30. One delegation indicated potential threats associated with the manufacture, proliferation and possible use of lethal autonomous weapon systems (LAWS). This delegation urged the introduction of an immediate pre-emptive moratorium on the production and use of lethal autonomous weapon systems. It was also pointed out that the issue of LAWS should be addressed comprehensively by the Conference on Disarmament.

31. The same delegation also indicated that the use of armed drones against civilian population constitutes a violation of international law, the United Nations Charter, the international humanitarian law and the international human rights. Some other loopholes in international law related to the issue of the use of armed drones were also addressed and the delegation, therefore, believes that the Conference on Disarmament should examine this issue in detail in order to instil greater transparency.

32. In its turn another delegation indicated that this year, discussions on the issue of LAWS started within the framework of CCW. At present, it is difficult to predict the results of such discussions. To that end, the proposed idea of a pre-emptive moratorium on the production and use of LAWS is rather premature.

Conclusions

33. The debates held during the informal open-ended meetings on the Conference on Disarmament agenda items 5, 6 and 7 among other things revealed the following:

- Relevance of all three mentioned items for the Conference agenda;
- Delegations, in principle, agreed to continue deliberations to explore the possibilities of negotiating a legally binding convention within the Conference on Disarmament on the "weaponisation of radioactive sources" under the Conference agenda item 5;
- No one delegation opposed the proposal to examine in detail the issue of armed drones within the Conference under the Conference on Disarmament agenda item 7.

Conference on Disarmament

25 August 2014
English
Original: Russian

Note verbale dated 20 August 2014 from the Permanent Mission of the Russian Federation addressed to the Secretariat of the Conference on Disarmament transmitting the comments made by the delegation of the Russian Federation on the report of the informal meetings prepared by the Coordinator on item 3 of the agenda of the Conference entitled "Prevention of an arms race in outer space"

The Permanent Mission of the Russian Federation to the United Nations Office and other international organizations in Geneva presents its compliments to the Secretariat of the Conference on Disarmament and has the honour to enclose the comments by the Russian delegation on the report on item 3 "Prevention of an arms race in outer space" of the agenda of the Conference on Disarmament with a request to distribute it as an official document of the Conference on Disarmament.

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Please recycle

Comments by the Russian delegation on the report on item 3 of the agenda of the Conference on Disarmament, "Prevention of an arms race in outer space"

1. At the informal meeting of the Conference on Disarmament held on 15 August, the Russian delegation drew participants' attention to a number of serious factual flaws in the report submitted by the Ambassador of the United Kingdom, Matthew Rowland, coordinator of the thematic discussions on this item. We are raising this question again because our proposal on ways to rectify the situation, including by making appropriate corrections, was not really addressed.

2. Our comments relate to the following facts, which, inexplicably, were not reflected in the document.

3. It should be noted that the discussion on not being the first to deploy weapons in outer space has been completely overlooked. During the meetings there was a very lively and substantive exchange of views on various aspects of the initiative. Experts from capitals contributed to the dialogue among delegations. However, the report does not include a single word about it, as if nothing of the kind had occurred.

4. The aforementioned initiative is directly related to disarmament. This provisional measure is intended to be a political guarantee not to place weapons in orbit until the treaty on the prevention of the placement of weapons in outer space, the threat or use of force against outer space objects (PPWT) has been concluded and enters into force.

5. The updated Russian-Chinese PPWT text was the object of specific critical remarks reflecting the approaches of some delegations. However, the report neglects to mention the fact that there were no objections to the draft in principle.

6. Moreover, over the years the PPWT text has been the only draft of a legally binding instrument on the prevention of an arms race in outer space (PAROS) that enjoys broad support. In this regard a number of delegations expressed support not only for continuing work on the text but also for launching negotiations on the basis of the Russian-Chinese draft, proposing that questions and concerns could be addressed along the way. Yet the report does not mention those statements, which have added value for the revitalization of the Conference as a negotiating body.

7. Instead of issues relating to PAROS, attention was focused on the politically binding draft international code of conduct for outer space activities prepared by the European Union. In this regard one may recall that not long ago delegations representing some of the nations involved in or supporting the drafting of the code expressed serious doubts about the idea put forward by Acting Secretary-General Michael Møller to launch negotiations in the Conference on politically binding instruments. In this context it is hard to understand why the report, in its coverage of the discussions in the Conference, gives prominence to the code of conduct.

8. At the same time, the report does not reflect the fact that a number of specific comments were made on the draft. In particular, delegations criticized subparagraph 4.2, which permits the destruction of outer space objects under certain circumstances. If the code is adopted in its current version, this provision will provide a basis for launching "first strike" systems. It seems very strange to be discussing such an initiative in the Conference, one of whose key objectives is, on the contrary, the prevention of an arms race in outer space.

9. Furthermore, a number of delegations questioned the appropriateness of discussing the code of conduct at the Conference, arguing that most of its content was not related to

disarmament issues. Indeed, the problems of security in outer space, including such aspects as space debris and the prevention of incidents, go well beyond the mandate of the Conference. References to this viewpoint are also absent from the report.

10. In this regard it is worth mentioning that the United Nations Committee on the Peaceful Uses of Outer Space, which deals with basic aspects of the long-term sustainability of outer space activities, has not reviewed the draft code.

11. Generally speaking, we do not question the right of the coordinator to have his own opinion on certain aspects of the discussion covered in the report, for whose compilation he was personally responsible. At the same time, we and other delegations have the right to expect an accurate presentation of the substantive elements of that discussion, which could be of practical use to the Conference.

12. In view of the foregoing, the Russian delegation cannot consider the report either balanced or objective. Moreover, in our view it is unacceptable not to react as appropriate to a report that gives a patently distorted image of the events. We are requesting that the Secretariat publish these comments as an official document of the Conference.

13. In conclusion, the Russian delegation calls on Conference participants to adhere strictly to the consensually adopted agenda of the Conference on Disarmament, especially with respect to core issues such as PAROS.

Conference on Disarmament

27 August 2014

Original: English

Note verbale dated 22 August 2014 from the Permanent Mission of Austria addressed to the Acting Secretary-General of the Conference on Disarmament transmitting the text of the paper entitled "Addressing the humanitarian consequences of nuclear weapons as the foundation of the Treaty on the Non-Proliferation of Nuclear Weapons in Oslo, Nayarit, Mexico and Vienna" submitted by Austria to the Third Session of the Preparatory Committee for the 2015 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons[1]

The Permanent Mission of Austria presents its compliments to the Acting Secretary-General of the Conference on Disarmament and has the honour to transmit herewith the paper entitled "Addressing the humanitarian consequences of nuclear weapons as the foundation of the Treaty on the Non-Proliferation of Nuclear Weapons in Oslo, Nayarit, Mexico and Vienna" submitted by Austria to the Third Session of the Preparatory Committee for the 2015 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons.

The Permanent Mission of Austria would appreciate it if the paper could be issued as an official document of the Conference on Disarmament and distributed to all member States and non-member participants of the Conference.

[1] Previously issued as document of the Preparatory Committee for the 2015 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons under symbol NPT/CONF.2015/PC.III/WP.30 of 24 April 2014 as attached.

Addressing the humanitarian consequences of nuclear weapons as the foundation of the Treaty on the Non-Proliferation of Nuclear Weapons in Oslo, Nayarit, Mexico and Vienna

Working paper submitted by Austria

1. One of the key goals of the international community in the negotiations of the Treaty on the Non-Proliferation of Nuclear Weapons, and the driving force of the Treaty's subsequent success in achieving its high level of universality, is encapsulated in the first preambular paragraph of the Treaty: "Considering the devastation that would be visited upon all mankind by a nuclear war and the consequent need to make every effort to avert the danger of such a war and to take measures to safeguard the security of peoples ... ".

2. The 2010 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons gave specific focus, inter alia, to this issue in its consensual conclusions and recommendations for follow-on actions (2010 action plan) by expressing "its deep concern at the catastrophic humanitarian consequences of any use of nuclear weapons". Moreover, the Conference resolved in action 1 of the action plan that "All States parties commit to pursue policies that are fully compatible with the Treaty and the objective of achieving a world without nuclear weapons." Thus, by advancing the key goal of the Treaty to achieve a world without nuclear weapons and implementing action 1 of the action plan, the international community has increased its focus on addressing the humanitarian consequences of nuclear weapons, including through international conferences specifically dedicated to this issue.

3. The Government of Norway hosted the first international conference in Oslo in March 2013. It provided an arena for the international community — including governmental experts from 128 States, international organizations, the International Committee of the Red Cross and civil society — to have a facts-based discussion about the humanitarian and developmental consequences that would result from a nuclear weapon detonation and about disaster preparedness. The main conclusions were that (a) no State or international body could address the immediate humanitarian emergency caused by a nuclear weapon detonation in any meaningful way; (b) no existing national or international emergency system would be able to provide adequate assistance to the victims; and (c) there would be serious long-term effects that would not be constrained by national borders.

4. Following this model, Mexico hosted the second international conference in Nayarit in February 2014. Experts from 146 States, international organizations, the International Committee of the Red Cross and civil society confirmed the initial findings of the Oslo conference and deepened their understanding of the humanitarian impact of nuclear weapons, including the long-term effects on socioeconomic development and the environment, as well as on health. Furthermore, the risk of nuclear weapon use was considered to be growing globally, including the risk of accidental, mistaken, unauthorized or intentional use. Efforts towards the total elimination of nuclear weapons comprise multiple actions and mutually reinforcing processes such as promoting the entry into force of the Comprehensive Nuclear-Test-Ban Treaty, achieving a comprehensive outcome in the 2015 Review Conference and discussing the humanitarian impact of nuclear weapons. The High-level Meeting of the United Nations General Assembly on Nuclear Disarmament, held in 2013, also provided positive impulses.

5. During the Nayarit conference, Austria offered to host the third international conference on the humanitarian consequences of nuclear weapons, scheduled to take place in December 2014. In his announcement for the media, Austrian Minister for Foreign Affairs Sebastian Kurz stated that: "Nuclear weapons are not only a permanent threat to all humankind but also a relic of the cold war that we must finally overcome. Nuclear disarmament is a global task and a collective responsibility. As a member State committed to the Treaty on the Non-Proliferation of Nuclear Weapons, Austria wants to do its share to achieve the goals of this Treaty." Austria will prepare the third international conference in an inclusive manner, building upon the findings and experience of the conferences held in Oslo and Nayarit.

6. Building on the preamble of the Treaty and pursuing the Treaty's goal of achieving a world without nuclear weapons as well as implementing the 2010 action plan, the broad-based and comprehensive discussions on the humanitarian impact of nuclear weapons that have taken place in Oslo and Nayarit — and later in Vienna in 2014 — underscore growing support to anchor the humanitarian imperative firmly in discussions about nuclear weapons and nuclear disarmament.

7. Better awareness of the devastating humanitarian impact and consequences of nuclear weapons builds momentum for the urgency of achieving nuclear disarmament and results in greater understanding of the need to eliminate this risk. The international community has an obligation to move forward with urgency, including on the basis of article VI of the Treaty, to achieve the elimination and prohibition of nuclear weapons. Facts-based discussions at the international conferences can assist States, together with civil society, in achieving this important result and the goal of the Treaty.

CD/1998

Conference on Disarmament

3 September 2014

Original: English

Note verbale dated 2 September 2014 from the Delegation of the United States of America to the Conference on Disarmament addressed to the Acting Secretary-General of the Conference transmitting the United States of America analysis of the 2014 Russian-Chinese draft treaty on the prevention of the placement of weapons in outer space, the threat or use of force against outer space objects

The Delegation of the United States of America to the Conference on Disarmament presents its compliments to Acting Secretary-General of the Conference on Disarmament Michael Møeller and has the honour of transmitting to the Secretariat a text containing the United States of America analysis of the 2014 Russian-Chinese draft "treaty on the prevention of the placement of weapons in outer space, the threat or use of force against outer space objects". The United States of America delegation would appreciate the Secretariat's assistance in issuing and circulating this text as an official document of the Conference on Disarmament.

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Please recycle

Analysis of the 2014 Russian-Chinese draft "treaty on the prevention of the placement of weapons in outer space, the threat or use of force against outer space objects" (PPWT) (CD/1985)

Executive summary

1. The June 12, 2014, draft PPWT (CD/1985) proposed by Russia and China, like the 2008 version, remains fundamentally flawed. The fundamental flaws include:

(a) **Verification**: There is no integral verification regime to help monitor/verify the limitation on the placement of weapons in space. The United States could not support an approach in which verification provisions were determined only through subsequent negotiations of an "additional protocol." Moreover, the United States has maintained that it is not possible with existing technologies and/or cooperative measures to effectively verify an agreement banning space-based weapons.

(b) **Scope**: Typically, arms control treaties that prohibit the deployment of a class of weapon also prohibit the possession, testing, production, and stockpiling of such weapons to prevent a country from rapidly breaking out of such treaties. The PPWT contains no such prohibitions and thus a Party could develop a readily deployable space-based weapons break-out capability.

(c) **Terrestrially-Based Anti-Satellite Weapons**: The Treaty does not address the most pressing, existing threat to outer space systems: terrestrially-based anti-satellite weapon systems. There is no prohibition on the research, development, testing, production, storage, or deployment of terrestrially-based anti-satellite weapons; thus such capabilities could be used to substitute for, and perform the functions of, space-based weapons.

2. Given the lack of a verification regime, the risk of a Party developing and deploying a break-out capability, and the failure to address the threat of terrestrially-based antisatellite capabilities, the United States has determined that the 2014 draft PPWT does not satisfy the President's criteria in the 2010 U.S. National Space Policy for considering space arms control concepts and proposals, namely, that they must be equitable, effectively verifiable, and enhance the national security of the United States and its allies. As a result, the 2014 draft PPWT provides no basis for the United States to support establishing an *ad hoc* committee to negotiate any such Treaty at the Conference on Disarmament or in any other forum.

Context

3. On 10 June, 2014, at the United Nations Conference on Disarmament (CD),the Russian Federation and China introduced for consideration an "updated" draft of the "treaty on the prevention of the placement of weapons in outer space, the threat or use of force against outer space objects" (PPWT). It was subsequently published as CD/1985 and dated 12 June 2014. This draft is an update of the previous draft PPWT (CD/1839 dated 29 February 2008). The earlier United States of America assessment of the 2008 draft PPWT can be found in CD/1847, dated 26 August 2008.

Analysis of key provisions

Verification

4. The 2014 draft PPWT – like the 2008 version – does not include an integral, legally binding verification regime for effectively monitoring and verifying compliance.

5. Moreover, in 2006 and 2009, the Russian Federation and China in CD/1781 (2006) and CD/1872 (2009) acknowledged that the PPWT's provisions could not be effectively verified using currently available technology.

(a) In their 2006 working paper on "Verification Aspects of PAROS" (CD/1781), the Russian Federation and China stated: "Technically, outer space verification measures would involve such cutting-edge technologies as survey, tracking, and spotting. There are not yet adequate technological conditions at the moment to make an effective verification regime possible."

(b) In their 2009 document "principal questions and comments on the draft treaty on prevention of the placement of weapons in outer space and of the threat or use of force against outer space objects (PPWT)" (CD/1872), the Russian Federation and China again acknowledged this reality, stating: "... it would seem appropriate to set aside the question of verification and other contentious issues for the time being. In the future, as science and technology progress and when the conditions are right, the addition of a verification protocol to PPWT may be considered."

6. Although the 2014 draft PPWT recognizes the need for subsequently negotiating a verification protocol, the United States of America could not support an approach in which key legally binding provisions required for the effective verification of an arms control agreement would only be determined through subsequent negotiations "of an additional protocol."

7. The 2014 draft PPWT – similar to the 2008 – states that the "States Parties may implement agreed transparency and confidence-building measures, on a voluntary basis, unless agreed otherwise." The United States of America is committed to pursuing voluntary bilateral and multilateral transparency and confidence-building measures (TCBMs), which can reduce the risk of miscalculation or misinterpretation during a crisis. However, for purposes of an arms control agreement such as the proposed draft Treaty, such TCBMs can complement, but not substitute for, an effective legally binding verification regime. The July 2013 report of the Group of Governmental Experts on Transparency and Confidence-Building Measures for Outer Space Activities sponsored by the United Nations endorsed this position.

Scope

8. Article II of the 2014 draft PPWT would prohibit the placement of "any weapons in outer space." As defined in Article I(b) in the 2014 draft, a "weapon in outer space" is "any outer space object or component thereof which has been produced or converted to destroy, damage or disrupt the normal functioning of objects in outer space, on the Earth's surface or in its atmosphere, or to eliminate human beings or components of the biosphere which are important to human existence, or to inflict damage on them by using any principles of physics." Article I(c) provides that a device is considered to be "placed in outer space" when "it orbits the Earth at least once, or follows a section of such an orbit before leaving that orbit, or is permanently located in outer space or on any celestial bodies other than the Earth."

9. This would prohibit the deployment or stationing in space of any device – "produced or converted" to destroy, damage, or disrupt the normal functioning of objects in outer space, regardless of the military mission, and regardless of the specific technologies employed by the weapon system in question to cause the destruction, damage, or disruption. There are no prohibitions, however, on the research, development, production, and terrestrial storage of space-based weapons, and, thus a Party – consistent with the provisions of the Treaty – could build and have in its inventory a readily deployable space-based ASAT or BMD capability. Typically, arms control treaties that prohibit the deployment of a class of weapon also prohibit the possession, testing, production, and stockpiling of such weapons to prevent a country from rapidly breaking out of such treaties.

10. Finally, the proposed draft treaty would not prohibit the testing of prohibited space-based weapons if they were tested against cooperative orbital targets and the test vehicle was launched into a sub-orbital trajectory, therefore never being "placed in outer space."

11. Article II of the draft would also prohibit "the resort to the threat or use of force against outer space objects of States Parties." Under Article I of the 2014 PPWT, "use of force" means "any intended action to inflict damage on an outer space object under the jurisdiction and/or control of other States." The term "threat of force" is defined as "the clear expression in written, oral or any other form of the intention to commit such an action." As an initial matter, the concept of "use of force" or "threat of force" is not explicitly defined under existing international law, and attempting to negotiate an agreed definition for purposes of this treaty would likely prove impossible. The United States of America would not support the attempt to define these concepts for purposes of this treaty, given that existing international law, as reflected in Article 2(4) of the United Nations Charter, already prohibits the use of force or the threat of force against another State's outer space objects.

12. Although the United States of America does not support attempts to negotiate a definition of these concepts for purposes of this treaty, we would note several ways in which the draft definitions of these concepts differ from existing international law. First, the treaty recognizes self-defense as an exception to the prohibition on the use of force, but does not explicitly recognize that a use of force could also be authorized by the United Nations Security Council under Chapter VII of the Charter of the United Nations. Second, the prohibition in the draft treaty only applies to the "outer space objects of States Parties" where, of course, existing international law already prohibits the use of force against all States' outer space objects, not just parties to any such treaty. Finally, the definition of "use of force" or "threat of force" under Article I of the draft is limited to actions "intended" to inflict damage. The United States of America does not believe an action must be specifically "intended" to inflict damage in order to constitute a use of force under existing international law.

13. It is also worth noting the potentially significant distinctions between the 2008 draft PPWT and the 2014 draft PPWT on this point. Like the 2008 draft treaty, the 2014 draft treaty prohibits, among other things, the threat or use of force against outer space objects of States Parties. However, the 2014 definition of "use of force" or "threat of force" no longer explicitly includes actions that cause temporary or reversible effects, such as those resulting from radio frequency jamming and optical sensor dazzling, or the deliberate alteration of the orbit of another country's satellite.[1] It is ambiguous whether the 2014 change was

[1] Article I(e) of the 2008 PPWT draft reads: "The "use of force" or the "threat of force" means "any hostile actions against outer space objects including, *inter alia*, actions aimed at destroying them, damaging them, temporarily or permanently disrupting their normal functioning or deliberately changing their orbit parameters, or the threat of such actions."

intended by the Russian Federation and China to specifically exclude actions that only cause temporary and reversible effects or whether such actions would be encompassed within the meaning of an "intended action to inflict damage." Weapons in outer space employing temporary and reversible effects may still be captured (as discussed above) since the definition of a "weapon in outer space" does encompass "to destroy, damage, ***and disrupt the normal functioning of objects in outer space***, ...", but, as discussed further below, such terrestrially-based capabilities would not be captured. [emphasis added]

Terrestrially-Based Anti-Satellite Weapons

14. The PPWT does not address the most pressing, existing threat to outer space systems: terrestrially-based anti-satellite weapon systems. Although the definition of "placed in outer space" is slightly ambiguous, the United States of America understanding, based in part on the Russian Federation and Chinese explanation of their intent in CD/1872, is that the 2014 draft PPWT, like the 2008 draft PPWT, would impose no prohibitions on the research, development, testing, production, storage, or deployment of terrestrially-based anti-satellite weapons (*e.g.*, direct-ascent ASAT interceptors, lasers, and jammers).

15. Furthermore, the prohibition that Parties shall "not resort to the threat or use of force against outer space objects of States Parties," in combination with the definition in Article I(d) of the 2014 draft PPWT of "use of force" as meaning "any action intended to inflict damage on an outer space object under the jurisdiction and/or control of other States," would not prohibit tests of terrestrially-based anti-satellite weapons by a State Party against its own outer space objects (*i.e.*, targets) or points-in-space.

(a) For example, under this interpretation of the 2014 draft treaty provisions, China's test on 11 January 2007, of a ground-based, direct-ascent ASAT against its own weather satellite would have been permitted.

(b) On 23 July 2014, China conducted a non-destructive ground-based direct-ascent ASAT test using the same interceptor missile that destroyed its own satellite in 2007. This test also would have been permitted under the 2014 draft PPWT provisions.

16. Additionally, the 2014 draft PPWT would not prohibit testing terrestrially-based anti-satellite weapons against another country's space object also if the test only involved, for example, a "fly-by," with no physical effect on the space object target (*i.e.*, not a destructive intercept and no creation of damage or debris), unless it were construed to be a "threat of force" directed against another State Party.

The Russian-Chinese Treaty 2014 PPWT Proposal: Summary of Implications

Basing mode	Space-based Counter-space	space-based missile defense	ground-based counter-space	sea-based counter-space	air-based counter-space
• Research	Permitted: No constraints or limitations				
• Development					
• Testing against own country's space objects	Prohibited	Prohibited	Permitted	Permitted	Permitted
• Production	Permitted: No constraints or limitations				

The Russian-Chinese Treaty 2014 PPWT Proposal: Summary of Implications

• Storage			
• Deployment	Prohibited	Prohibited	No constraints or limitations
• Operational use Against another country's space objects	Prohibited if constitutes a "use of force" or "threat of force" (Except when required for "self-defense")		

Conference on Disarmament

4 September 2014

Original: English

Cuba
on behalf of member States of G-21

Working paper

United Nations General Assembly resolution 68/32 entitled "Follow-up to the 2013 high-level meeting of the General Assembly on nuclear disarmament"

1. At its 67th session, the United Nations General Assembly decided through its resolution 67/39 to convene a High Level Meeting (HLM) on nuclear disarmament during the High Level segment of the 68th session of the General Assembly in 2013. The High Level Meeting was accordingly held on 26 September 2013 providing an opportunity for Heads of State and Government, Foreign Ministers, and other high-level officials to outline their policies for nuclear disarmament. The meeting underlined the strong support of the international community for taking urgent and effective measures to achieve the total elimination of nuclear weapons.

2. Subsequent to this High Level Meeting, the General Assembly adopted resolution 68/32 on 5 December 2013 titled "Follow-up to the 2013 High-level Meeting of the General Assembly on Nuclear Disarmament". The resolution called for the urgent commencement of negotiations in the Conference on Disarmament for the early conclusion of a comprehensive convention on nuclear weapons to prohibit their possession, development, production, acquisition, testing, stockpiling, transfer, use or threat of use and to provide for their destruction.

3. The Resolution also requested the Secretary-General to seek the views of Member States with regard to achieving the objective of the total elimination of nuclear weapons, in particular on the elements of a comprehensive convention on nuclear weapons, and to submit a report thereon to the General Assembly at its sixty-ninth session, and also to transmit the report to the Conference on Disarmament.

4. It also decided to convene a United Nations high-level international conference on nuclear disarmament no later than 2018 to review progress made in this regard, and declared 26 September as the International Day for the Total Elimination of Nuclear Weapons.

5. The Secretary-General of the United Nations Ban-ki Moon, in his address to the opening plenary meeting of the Conference on Disarmament on 21 January 2014, noted that "the High-level Meeting of the General Assembly on Nuclear Disarmament demonstrated

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that this issue remains a major international priority". The Secretary-General warned against the mentality of the Cold War. He said "Do not hide behind utopian logic which says that until we have the perfect security environment, nuclear disarmament cannot proceed. This is old think. This is the mentality of the Cold War".

6. The continuing existence of nuclear weapons poses a grave threat to humanity and all life on Earth, and the only defence against the catastrophic humanitarian consequences of a nuclear detonation is the total elimination of nuclear weapons and the certainty that they will never be produced again.

7. Nuclear disarmament is the highest priority of the Conference on Disarmament. The Group reaffirms that the total elimination of nuclear weapons is the only absolute guarantee against their use or threat of use. The fulfilment of nuclear disarmament obligations and commitments would mutually reinforce non-proliferation. Nuclear disarmament has to be pursued in a comprehensive and non-discriminatory manner.

8. The G-21 is mindful of the solemn obligations of States parties, undertaken in article VI of the Treaty on Non-proliferation of Nuclear Weapons, particularly to pursue negotiations in good faith on effective measures relating cessation of the nuclear arms race at an early date and to nuclear disarmament and calls for urgent compliance with the legal obligation of the fulfilment of the commitments undertaken in this field.

9. We acknowledge the significant contribution made by a number of countries towards realizing the objective of nuclear disarmament by the establishment of nuclear-weapon-free zones, as well as by voluntary renunciation of nuclear weapon programmes or withdrawal of all nuclear weapons from their territories, and strongly supporting the speedy establishment of a nuclear-weapon-free zone in the Middle East,

10. We are deeply concerned at the persistent reluctance by nuclear weapons states to approach their treaty obligation as an urgent commitment to the total elimination of their nuclear weapons.

11. In this connection we recall the unanimous conclusion of the International Court of Justice in its 1996 advisory opinion that there exists an obligation to pursue in good faith and bring to conclusion the negotiations leading to nuclear disarmament in all its aspects under strict and effective international control.

12. It is the firm belief of the Group that the time has come to put words into action. Accordingly, the Group of 21 takes this opportunity to call for the implementation of United Nations General Assembly resolution 68/32. In this connection, the Group of 21 calls for the urgent commencement of negotiations on nuclear disarmament in the Conference on Disarmament, in particular on a comprehensive convention on nuclear weapons to prohibit their possession, development, production, acquisition, testing, stockpiling, transfer, use or threat of use and to provide fro their destruction.

13. The Group of 21 requests to the Presidency of the Conference on Disarmament to take into account during future consultations, how to take forward the mandate given to the Conference by the United Nations General Assembly on this important issue, and call upon members of the Conference to support this important initiative.

CD/2000

Conference on Disarmament

4 September 2014

Original: English

Letter dated 2 September 2014 from the President of the Conference on Disarmament addressed to the Acting Secretary-General of the Conference transmitting the report of the Informal Working Group established pursuant to decision of the Conference adopted at its 1308th plenary meeting on 3 March 2014

I have the honour to submit to the Conference on Disarmament the final report on the work of the Informal Working Group established pursuant to decision CD/1974 with a mandate to produce a programme of work robust in substance and progressive over time in implementation.

The report is submitted by the Co-Chair and Vice Co-Chair in their personal capacities and without prejudice to the national positions of member States.

(*Signed*): Mazlan Muhammad
President of the Conference on Disarmament

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Mr President

1. It is my honour to report to you, in my capacity as co-Chair, and on behalf of my Vice co-Chair, Mr. Peter Woolcott, Ambassador of Australia, on the outcome of informal consultations held during 2014 on the Informal Working Group to the Conference on Disarmament, established under CD/1974. This Informal Working Group followed on from the work we undertook in the same capacity in the Informal Working Group established in 2013 pursuant to CD/1956/Rev.1.

2. You will recall that the mandate of the Informal Working Group was to produce a programme of work, robust in substance and progressive over time in implementation, at the earliest possible date in its 2014 session.

3. Since that time Ambassador Woolcott and I, pursuant to paragraph 5 of CD/1974, and upon the agreement of the respective Presidents, have conducted widespread consultations on a programme of work, and in particular explored the possibility of a negotiating mandate relating to the four core issues (CD/1965). We also consulted on the possibility of a negotiating mandate on a combination of these four issues. To this end, we convened three open meetings which were attended by members and observers States of the Conference. These were conducted on 19 May 2014, 28 July 2014 and 18 August 2014.

4. Concurrently, while continuing to seek a path towards renewed negotiations, the Conference on Disarmament decided in its early sessions in 2014 under the Japanese Presidency to convene informal open-ended meetings for holding structured and substantive discussions on its agenda items (schedule of activities). The subsequent discussions in the 2014 meetings of the Conference in relation to the schedule of activities provided a valuable opportunity for delegations to exchange views, to identify issues of commonality and points of divergence, and to lay the groundwork to facilitate possible future negotiations following the adoption of a programme of work. They did not, however, lead to a breakthrough to enable the adoption of a programme of work.

5. As our consultations proceeded it was clear that no consensus existed to take forward a programme of work in relation to any of the four issues which would be robust in substance and progressive over time in implementation. Nor was there any prospect for agreement on a simplified programme of work, nor combining specific items among the core agenda items for the purposes of negotiation, such as agenda items 1 and 2 with a specific focus on fissile material for use in nuclear weapons and other nuclear explosive devices and agenda items 3 (Prevention of an Arms Race in Outer Space), and 4 (Negative Security Assurances) respectively. In our considered view this is not likely to change in the foreseeable future.

6. Given these circumstances, we also explored whether there was any interest and willingness to enter into a possible negotiation in the Conference on agenda item 5, concerning the "weaponisation of radioactive sources/ a ban on radiological weapons".

7. In this regard, we noted that radioactive sources were hazardous, and could be lethal either through accident, misuse or malicious activity. This included as candidates for the construction of "dirty bombs". We also noted that in 1990, the Conference on Disarmament, building on discussions held in 1987, 1988 and 1989, had created the Ad Hoc Committee on Radiological Weapons with a view to reaching agreement on commencing negotiations on a convention prohibiting the development, production, stockpiling and use of radiological weapons. We also noted that while there was a politically-binding regime (contained in the IAEA Code of Conduct in relation to Safety and Security of Radioactive Sources), there was a possible legal gap in the coverage of radiological sources. The question was whether the significant security and public health risks attached to this issue were sufficient to warrant a decision to commence negotiations to "fill the possible legal void". Subsequent to the meeting on 19 May, we drafted a

working paper on the weaponisation of radioactive sources which we presented to the Conference on Disarmament in our capacity as co-Chair and Vice Co-Chair. This working paper was welcomed by many members and observers of the Conference and many delegations commended the paper for its balanced approach, for stimulating discussion on the issues for and against proceeding to negotiate a convention on the weaponisation of radioactive sources, and for clarifying the current legal framework in relation to agenda item 5. The issue was subsequently discussed by delegations during the schedule of activities dedicated to this item, chaired by Mr. Mikhail Khvostov, Ambassador of Belarus, on 25 June 2014.

8. Additionally, the Informal Working Group also discussed whether there was any scope to develop those proposals relevant to a programme of work submitted by the Acting Secretary-General, Mr Michael Møller, to the Conference on 20 May in order to move forward on a programme of work. The Acting Secretary-General's proposals were, in summary, as follows:

- Developing a framework convention approach, to which substantive protocols might subsequently be added.
- Exploring ways on which voluntary, politically binding regimes might be negotiated.

9. Following a discussion on these proposals in the meeting of the Informal Working Group of 28 July, it was apparent that there was no consensus on progressing with either of the two options proposed by Mr Møller in the immediate future. Nevertheless, several delegations noted these could offer ways forward in the future for enabling the Conference to secure agreement on a negotiating mandate.

10. At the meeting on 28 July 2014, we also proposed, should consensus be forthcoming, a possible way forward for 2015. This included canvassing interest in:

- The appointment of coordinators for 2015 on the four core agenda items as part of a schedule of activities (consistent with 2014).
- Agreement on the creation of an informal working group to discuss, inter alia, issues relating to whether to proceed with a negotiation on agenda item 5. This would include a canvassing of the merits or otherwise of a convention on the weaponisation of radioactive sources, and issues that would need to be negotiated should the Conference on Disarmament agree to proceed with this course of action.

11. From the discussions on 28 July, it was clear that this proposal would not find agreement with all delegations.

12. As required in paragraph 6 of CD/1974, we now submit to you the final report on the work of the Group. We confirm that no consensus emerged on a programme of work during this period or on proceeding with any of the options noted above. Nevertheless, we believe that a range of fruitful exchanges have taken place which open up some possible avenues for progress on achieving an eventual programme of work.

(signed) Luis Gallegos Chiriboga
Co-Chair

(signed) Peter Woolcott
Vice Co-Chair